147 U.S. 268

RECORD, CASE NO. 14479.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1892.

TERM NO., 649.

THE UNITED STATES, APPELLANT,

vs.

CHARLES B. HARMON.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MAINE.

FILED FEBRUARY 12, 1891.

14 - US 265

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THE UNITED STATES, APPELLANT,

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APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MAINE.

FILED FEBRUARY 12, 1891.

RECORD, CASE NO. 11479.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1892.

TERM NO.: 649.

THE UNITED STATES, APPELLANT,

vs.

CHARLES B. HARMON.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MAINE.

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1 TRANSCRIPT OF RECORD.

Circuit court of the United States, district of Maine, September 1, A. D. 1890.

No. 94.

Charles B. Harmon, petitioner, v. The United States.

On the 7th day of February, A. D. 1890, Edward M. Rand, attorney, filed the following

Petition.

To the honorable circuit court of the United States for the first circuit and district of Maine:

Respectfully represents Charles B. Harmon, of Biddeford, in said district, that from the ninth day of March, A. D. 1886, to the first day of October, A. D. 1888, he was the duly appointed, qualified, and acting marshal of the United States for said district of Maine, and that during that time he rendered certain official services for the United States, and thereby earned and became entitled to receive from the United States the fees allowed therefor by law.

That at the close of the quarter ending June 30, 1886, and of each subsequent quarter during the period aforesaid, your petitioner rendered in duplicate his official account against the United States, with the vouchers and items thereof, for the services so rendered, to the honorable district court of the United States for said district, and in presence of the district attorney for said district, proved in open court to the satisfaction
2 of said court by his own oath that the services therein charged had been actually and necessarily performed as therein stated, and that the disbursements charged had been fully paid in lawful money; and said court thereupon caused to be entered of record an order approving said account, and thereupon said original account and vouchers, with an attested copy of the order of approval of said court entered thereon was duly forwarded to the First Auditor of the Treasury of the United States, and was by him duly forwarded to the First Comptroller of the Treasury of the United States, all as required by law.

That of the sums claimed in said several accounts the said First Comptroller disallowed the amounts following, viz:

In the quarter ending	June 30, 1886		888.12
"	"	September 30, 1886	594.62
"	"	December 31, 1886	369.98
"	"	March 31, 1887	223.80
"	"	June 30, 1887	123.30
"	"	September 30, 1887	142.40
"	"	December 31, 1887	67.36
"	"	March 31, 1888	44.20
"	"	June 30, 1888	67.22
"	"	September 30, 1888	49.60

Which said disallowances your petitioner avers were "unauthorized by law," and were in direct violation of the statutes of the United States, of well settled usage, and of his rights as marshal as aforesaid.

And the several sums so disallowed by said First Comptroller
3 your petitioner claims are now justly due to him from the United States, and the particular items of said several amounts are set forth in the schedules numbered 1 to 16, inclusive, which are hereto annexed and form a part of this petition; that the total amount of the same is seventeen hundred and seventy dollars and sixty cents, and that said amount is justly due to your petitioner, and no part of the same has been received by him.

Wherefore your petitioner prays judgement against the United States for said sum of seventeen hundred and seventy dollars and sixty cents, and for his costs.

CHARLES B. HARMON.

UNITED STATES OF AMERICA,
District of Maine, ss:

Then personally appeared the above named Charles B. Harmon and made oath to the truth of the facts set forth in the foregoing petition, this sixth day of February, A. D. 1890.

Before me,

[L. S.] EDWARD M. RAND,
Commissioner C. C. U. S.

4 SCHEDULE No. 1.—*Misc. expenses, quarter ending June* 30, 1886.

Statement of differences No. 98695.

Item 5.	In distributing venires for April term, 1886, U. S. circuit court: 1886. April 23, paid 10 constables $2.00 each	$20.00

5 SCHEDULE No. 2.—*Quarter ending June* 30, 1886. *For travel, attendance, and services.*

Statement of differences No. 98761.

Item 4.	Travel from Biddeford, Me., to attend U. S. circuit court at Portland: 1886. April 26, 18 miles	$1.80	
	May 3, " "	1.80	
	" 10, " "	1.80	
	June 7, " "	1.80	
	" 12, " "	1.80	
			$9.00
	To attend U. S. district court at Portland: 1886. May 25, 18 miles	$1.80	1.80
Item 8.	1886. June 10, in U. S. vs. Alley Hawkes, travel to serve subpœna of Commissioner Rand at Windham, 12 miles		.72
Item 9.	1886. June 30, in U. S. vs. John Darvone, jr., travel to serve Commissioner Clifford's warrant to arrest dft., at Waterville, 86 miles	5.16	
	Transportation self and prisoner from Waterville to Portland, Maine, 86 miles	8.60	
			13.76
Item 11.	1886. April 24, in U. S. vs. Jeffrey Gerroir, travel to serve subpœna from U. S. circuit court, Massachusetts district at Cranberry Isle, 314 miles		18.84
	Amount carried up		44.12
6 Item 12.	1886. April 1, in U. S. vs. Henry C. Dainco, attendance before Commissioner Rand of marshal and Deputy A. L. Smith.		$4.00
Item 13.	1886. June 11, in U. S. vs. Alley Hawkes; June 15, in U. S. vs. James Campbell; June 18, in U. S. vs. Edwin W. Haskell, attendance before Commissioner Rand of Deputy R. M. Johnson, 3 days.		6.00

SCHEDULE No. 2.—*Quarter ending June 30, 1886. For travel, etc.*—Continued.

Statement of differences No. 95761—Continued.

Item 14. 1886. June 17, in U. S. vs. Robert E. Alby; June 30, in U. S. vs. John Darvone, jr., attendance before Commissioner Clifford, of Deputy R. M. Johnson, 2 days $4.00
Item 16. 1886. April 10, in U. S. vs. Daniel Friel, poor convict, services by Deputy A. L. Smith of Commissioner Rand's mandate to jailer... 2.00
Item 16. 1886. May 13, in U. S. vs. George Lyons, service by Marshal Harmon of Com'r Rand's warrant to commit 2.00
Item 16. 1886. June 12, in U. S. vs. David McDonald, service by Deputy A. L. Smith of Com'r Rand's warrant to commit 2.00
Item 16. 1886. June 18, in U. S. vs. Edwin W. Haskell, service by Deputy R. M. Johnson of Com'r Rand's warrant to commit 2.00

Amount carried up 66.12
7 Item 16. 1886. June 12, in U. S. vs. Robert Alby, service by Deputy R. M. Johnson of Com'r Clifford's warrant to commit 2.00

Total 68.12

8 SCHEDULE No. 3.—*Fees paid witnesses. Quarter ending Sept. 30th, 1886.*

Statement of differences No. 101604.

Item 2. In U. S. vs. Rufus C. Thomas, paid on order of Com'r Rand:
1886. July 10, J. J. Walsh, travel, 108 miles $10.80
" " " C. A. McCaffrey, 108 miles 10.80
" " " D. A. Sunderland, 108 miles 10.80
$32.40

Item 5. In U. S. vs. Fred J. Muller, paid on order of Com'r Rand:
1886. July 16, John J. Walsh, travel, 108 miles 10.80
" " " C. A. McCaffrey, 108 " 10.80
21.60

Item 6. In U. S. vs. Lyman W. Gibson, paid on order of Com'r Rand:
1886. July 16, D. A. Sunderland, travel, 108 miles 10.80

Item 7. In U. S. vs. Allie Holt, paid on order of Com'r Rand:
1886. July 19, D. A. Sunderland, travel, 108 miles 10.80
" " " Chas. E. Cole, " 15 " 1.50
12.30

Item 9. In U. S. vs. Lydia A. Avery, paid on order of Com'r Rand:
1886. July 21, John J. Walsh, travel, 108 miles 10.80
" " " C. A. McCaffrey, " 108 " 10.80
21.60

Amount carried forward 98.70
9 Item 10. In U. S. vs. Eugene Bryant, paid on order of Com'r Rand:
1886. Aug. 6, C. A. McCaffrey, travel, 108 miles... 10.80
" " " J. J. Walsh, " 108 " ... 10.80
21.60

Item 11. In U. S. vs. Thomas Hughes, paid on order of Com'r Rand:
1886. Aug. 18, J. J. Walsh, travel, 108 miles 10.80
" " " C. A. McCaffrey, " 108 " 10.80
21.60

Item 12. In U. S. vs. John F. Hoyt, paid on order of Com'r Rand:
1886. Aug. 24, J. J. Walsh, travel, 108 miles 10.80
" " " C. A. McCaffrey, " 108 miles 10.80
21.60

Item 13. In U. S. vs. Joseph Emery, paid on order of Com'r Rand:
1886. Aug. 3, D. A. Sunderland, travel, 108 miles 10.80
" " " Charles E. Cole, " 15 " 1.50
12.30

Item 14. In U. S. vs. Fabian Ouillette, paid on order of Com'r Rand:
1886. Sept. 21, D. A. Sunderland, travel, 108 miles 10.80
" " " Charles E. Cole, " 15 " 1.50
12.30

SCHEDULE No. 3.—*Fees paid witnesses. Quarter ending Sept. 30th,* 1886—Continued.

Statement of differences No. 101604—Continued.

Item 15.	In U. S. vs. Robert Dunn, paid on order of Com'r Rand:				
	1886.	Sept. 28,	D. A. Sunderland, travel, 108 miles	$10.80	
	"	"	" Charles E. Cole, " 15 "	1.50	
Item 16.	"	"	" D. A. Sunderland, attendance	1.50	
	"	"	" Charles E. Cole, "	1.50	
					$15.30
	Amount carried forwrad				$203.40
10 Item 17.	In U. S. vs. Margaret Flaherty, paid on order of Com'r Clifford:				
	1886.	July 1,	D. A. Sunderland, travel, 108 miles	10.80	
	"	"	" Charles E. Cole, " 15 "	1.50	
					12.30
Item 18.	In U. S. vs. John Darveau, jr., paid on order of Com'r Clifford:				
	1886.	July 9,	D. A. Sunderland, travel, 108 miles	10.80	
	"	"	" Charles E. Cole " 15 "	1.50	
Item 19.	"	" 7,	D. A. Sunderland, attendance	1.50	
	"	" 8,	" " "	1.50	
	"	" 7,	Charles E. Cole "	1.50	
	"	" 8,	" " " "	1.50	
					18.30
Item 20.	In U. S. vs. E. W. Blair, paid on order of Com'r Clifford:				
	1886.	July 8,	D. A. Sunderland, travel, 108 miles	10.80	
	"	"	" Charles E. Cole, " 15 "	1.50	
	"	"	7 & 8, D. A. Sunderland, attendance, 2 days	3.00	
	"	"	7 & 8, Charles E. Cole " " "	3.00	
					18.30
Item 21.	In U. S. vs. James Tucker, paid on order of Com'r Clifford:				
	1886.	July 9,	John J. Walsh, travel, 108 miles	10.80	
	"	" 9 & 10,	" " " attendance	3.00	
	"	" 9,	C. A. McCaffrey, travel, 108 miles	10.80	
Item 22.	"	" 9 & 10,	" attendance	3.00	
					27.60
Item 23.	In U. S. vs. William P. McSweeny, paid on order of Com'r Clifford:				
	1887.	July 13,	D. A. Sunderland, travel, 108 miles	10.80	
	"	" 13 & 14,	" attendance	3.00	
					13.80
	Amount carried forward				$293.70
11 Item 24.	In U. S. vs. William P. McSweeny, paid on order of Com'r Clifford:				
	1886.	July 13,	Charles E. Cole, travel, 15 miles	1.50	
	"	" 13 & 14,	" " " attendance	3.00	
Item 25.	"	" 13,	John J. Walsh, travel, 108 miles	10.80	
	"	" 14,	" " attendance	1.50	
					16.80
Item 26.	In U. S. vs. J. L. Bohnsen, paid on order of Com'r Clifford:				
	1886.	July 27,	D. A. Sunderland, travel, 115 miles	11.50	
	"	"	" " attendance	1.50	
Item 27.	"	"	" Charles E. Cole, travel, 25 miles	2.50	
	"	"	" " " attendance	1.50	
					17.00
Item 28.	In U. S. vs. William Spencer, paid on order of Com'r Clifford:				
	1886.	Aug. 6,	D. A. Sunderland, travel, 108 miles	10.80	
Item 29 and 30.	"	" 6	C. A. McCaffery, " 108 "	10.80	
	"	" 6 & 7,	" " attendance	3.00	
					24.60
Item 31 and 32.	In U. S. vs. Arthur Sampson, paid on order of Com'r Clifford:				
	1886.	July 26,	C. A. McCaffrey, travel, 108 miles	10.80	
	"	"	" " attendance	3.00	
	"	"	J. J. Walsh, travel, 108 miles	10.80	
	"	"	" " attendance	3.00	
					27.60

SCHEDULE No. 3.—*Fees paid witnesses. Quarter ending Sept. 30th, 1886*—Continued.

Statement of differences No. 101604—Continued.

Item 33. In U. S. vs. D. B. Cressey, paid on order of Com'r Clifford:			
1886. Sept. 39, D. A. Sunderland, travel, 108 miles	$10.80		
" " " " " attendance	3.00		
" " " Charles E. Cole, travel, 15 miles	1.50		
" " " " " attendance	3.00		
			$18.30
Amount carried forward			$398.00
12 Item 34. For travel to attend U. S. circuit court, Portland, Me., paid on order of clerk:			
1886. Sept. 23, C. A. McCaffrey, travel, 108 miles	10.80		
" " " John J. Walsh, " 108 "	10.80		
" " " D. A. Sunderland, " 108 "	10.80		
			32.40
Item 35. In U. S. vs. Charles S. DeLong, paid on order of Com'r Hamlin:			
1886. July 28, James Dempsey, attendance	1.50		
" " " Isaac Comelson, "	1.50		
			3.00
Item 36. In U. S. vs. Amanda Bedott, paid on order of Com'r Hamlin:			
1886. July 30, James Victory, attendance	1.50		
" " " Duncan Robinson, "	1.50		
			3.00
Item 37. In U. S. vs. George Gould, paid on order of Com'r Hamlin:			
1886. July 20, James Campbell, attendance	1.50		
" " " William Campbell, "	1.50		
" " " James L. Stoddard, "	1.50		
			4.50
Total			$440.90

13 SCHEDULE No. 4.—*For service of precepts, travel, attendance, and transportation, quarter ending Sept. 30th, 1886.*

Statement of differences No. 101647.

Item 1. 1886. July 19, service at Portland by Deputy A. L. Smith of U. S. circuit court's warrant to arrest William F. Wilson		$2.00
Item 1. 1886. July 23, service at Portland by Marshal Harmon of U. S. circuit court's warrant to arrest George Gould		$2.00
Item 1. 1886. Aug. 4, service at Portland by Deputy R. M. Johnson of U. S. circuit court's warrant to arrest Lydia A. Avery		$2.00
Item 1. 1886. Sept. 30, service at Portland by Deputy A. L. Smith of U. S. circuit court's warrant to arrest Allison B. Bartlett		$2.00
Item 1. 1886. Aug. 2, Service at Portland by Marshal Harmon of U. S. circuit court's warrant to arrest James Tucker		$2.00
Item 1. 1886. Sept. 28, service at Portland by Deputy A. L. Smith of U. S. circuit court's warrant to arrest William E. Gould		$2.00
Item 4. 1886. Sept. 23, in U. S. vs. Roderick McDonald, U. S. circuit court, travel by Marshal Harmon to serve subpœna at Gardiner and Augusta, 67 miles		$4.02
Amount carried forward		$16.02
14 Item 8. 1886. Sept. 6, in U. S. vs. Amanda Bedott, U. S. district court. Travel by Deputy R. M. Johnson from Bath in serving warrant of removal of prisoner to Houlton, Maine, 243 miles		14.58
Item 10. 1886. Sept. 1, in U. S. vs. Levi Elliot, U. S. district court. Travel by Deputy R. M. Johson to serve subpœna at Amity and Orient, Me., 214 miles		12.84
Item 14. 1886. July 10, travel by Deputy R. M. Johnson to serve Com'r Rand's warrant to arrest Rufus C. Thomas, 40 miles	$2.40	
Transportation deputy and prisoner to place of hearing, 40 miles	4.00	
		6.40

SCHEDULE No. 4.—*For service of precepts, travel, etc.*—Continued.

Statement of differences No. 101647—Continued.

Item 15.	1886. July 20, travel by Deputy R. M. Johnson to serve Com'r Rand's warrant to arrest Orlando Y. Gerald, 112 miles	$6.72	
	Transportation deputy and prisoner to place of hearing, 112 miles	11.20	
			$17.92
	Amount carried up		67.76
15 Item 16.	1886. July 22, in U. S. vs. David McDonald, poor convict. Service by Marshal Harmon of Com'r Rand's mandate to jailer	2.00	
	Paid hack hire, prisoner, jail to court	1.00	
			3.00
Item 16.	1886. Aug. 18. in U. S. vs. William F. Wilson, poor convict. Service by Deputy A. L. Smith of Com'r Rand's mandate to jailer	2.00	
	Paid hack hire, prisoner, jail to court	1.00	
			3.00
Item 16.	1886. Aug. 23, in U. S. vs. George Gould, poor convict. Service by Deputy R. M. Johnson of Com'r Rand's mandate to jailer	2.00	
	Paid hack hire, prisoner, jail to court	1.00	
			3.00
Item 16.	1886. Sept. 3, in U. S. vs. Lydia A. Avery, poor convict. Service by Deputy A. L. Smith, of Com'r Rand's mandate to jailer	2.00	
	Paid hack hire, prisoner, jail to court	1.00	
			3.00
Item 18.	1886. Aug. 14, in U. S. vs. Jackson Matthews. Travel by Deputy R. M. Johnson to serve subpœna of Com'r Rand, at Rockport, Me., 95 miles		5.70
Item 21.	1886. In U. S. vs. Eugene W. Blair, before Com'r Clifford. Paid hack hire of prisoner:		
	July 8, jail to court	1.00	
	" " court to jail	1.00	
	" 14, jail to court	1.00	
			3.00
	Amount carried forward		88.46
16 Item 22.	1886. July 10, in U. S. vs. James Tucker. Paid hack hire, removing prisoner, court to jail, on Com'r Clifford's warrant to commit		1.00
Item 22.	1886. Aug. 12, in U. S. vs. John Roberts, before Com'r Clifford. Paid hack hire, removing prisoner, jail to court		1.00
Item 22.	1886. Sept. 28, in U. S. vs. William E. Gould, before Com'r Clifford. Paid hack hire, removing prisoner, jail to court		1.00
Item 23.	1886. July 17, in U. S. vs. George Gould. Travel to serve subpœna of Com'r Hamlin at Limeus, 176 miles		10.56
Item 24.	1886. Aug. 12, travel by Deputy R. M. Johnson to serve Com'r Clifford's warrant to arrest John Roberts, 58 miles		3.48
Item 28.	1886. July 30, travel by Deputy R. M. Johnson to serve Com'r Hamlin's warrant to arrest Amanda Bedott, 171 miles	$10.26	
	Transportation, deputy and prisoner, to place of hearing, 171 miles	17.10	
		27.36	
	Less error in disallowance by First Comptroller	10.00	
			17.36
	Amount carried forward		122.86
17 Item 29.	1886. Aug. 22, travel by Marshal Harmon to serve Com'r Hamlin's warrant to arrest Nancy J. Murch, 176 miles		10.56
Item 30.	1886. Sept. 4, travel by Deputy R. M. Johnson to serve Com'r Hamlin's warrant to arrest William Young, 205 miles		12.30

SCHEDULE No. 4.—*For service of precepts, travel, etc.*—Continued.

Statement of differences No. 101647—Continued.

Item 23. 1886. July 22, in U. S. vs. David McDonald. Attendance before Com'r Rand of Deputies Smith and Johnson	$4.00	
1886. Aug. 23, in U. S. vs. George Gould. Attendance before Com'r Rand of Deputies Smith and Johnson	4.00	
		$8.00
Total		153.72

18 SCHEDULE No. 5.—*Fees paid witnesses, quarter ending Dec. 31st, 1886.*

Statement of differences No. 103637.

Item 2. For attendance at U. S. District Court, Portland, Me.: 1886. Dec. 9, paid hotel bill of John B. Redman, collector of internal revenue, as per his sworn statement of actual expenses		$2.50
Item 6. In U. S. vs. John P. Brown, paid on order of Com'r Rand: 1886. Oct. 25, D. A. Sunderland, travel, 108 miles		10.80
Item 6. In U. S. vs. Eleasor Lessor, paid on order of Com'r Rand: 1886. Oct. 28, D. A. Sunderland, travel, 108 miles		10.80
Item 6. In U. S. vs. Alger Parker, paid on order of Com'r Rand: 1886. Nov. 9, D. A. Sunderland, travel, 108 miles	10.80	
" " " John J. Walsh " 108 "	10.80	
" " " C. A. McCaffery " 108 "	10.80	
		32.40
Item 6. In U. S. vs. Alfred Le Claire, paid on order of Com'r Rand: 1886. Nov. 16, C. A. McCaffery, travel, 108 miles		10.80
Item 6. In U. S. vs. Robert E. Latty, paid on order of Com'r Rand: 1886. Nov. 23, D. A. Sunderland, travel, 108 miles		10.80
Amount carried forward		$78.10
19 Item 6. In U. S. vs. Dexter W. Rowe, paid on order of Com'r Rand: 1886. Dec. 14, D. A. Sunderland, travel, 108 miles		10.80
Item 7. In U. S. vs. Joseph La Montaigne, paid on order of Com'r Clifford: 1886. Oct. 11, D. A. Sunderland, travel, 108 miles		10.80
Item 7. In U. S. vs. Mary F. Smart, paid on order of Com'r Clifford: 1886. Oct 12, D. A. Sunderland, travel, 108 miles	10.80	
" " " John J. Walsh, " 108 "	10.80	
Item 8. " " " D. A. Sunderland, attendance	1.50	
" " " Charles E. Cole "	1.50	
		24.60
Item 7. In U. S. vs. William H. Wentworth, paid on order of Com'r Clifford: 1886. Oct. 18, C. A. McCaffrey, travel, 108 miles	10.80	
" " " John J. Walsh, " 108 "	10.80	
		21.60
Item 7. In U. S. vs. John S. Safford, paid on order of Com'r Clifford: 1886. Oct. 19, C. A. McCaffrey, travel, 108 miles	10.80	
" " " John J. Walsh, " 108 "	10.80	
		21.60
Item 7. In U. S. vs. Fred Rontier, paid on order of Com'r Clifford: 1876. Oct. 20, C. A. McCaffrey, travel, 108 miles	10.80	
" " " D. A. Sunderland " 108 miles	10.80	
		21.60
Amount carried forward		189.10
20 Item 7. In U. S. vs. Robert Hamilton. Paid on order of Com'r Clifford: 1886. Oct. 28, D. A. Sunderland, travel 108 miles		10.80
Item 9. In U. S. vs. Francis Story. Paid on order of Com'r Choate: 1866. Nov. 15, D. A. Sunderland, travel, 170 miles		17.00
Item 10. In U. S. vs. John J. Keene. Paid on order of Com'r Choate: 1886. Nov. 16, D. A. Sunderland, travel, 170 miles	17.00	
" " " Charles E. Cole, " 80 "	8.00	
		25.00

SCHEDULE No. 5.—*Fees paid witnesses, quarter ending Dec. 31st, 1886*—Continued

Statement of differences No. 103637—Continued.

Item 11. In U. S. vs. Patrick Malone. Paid on order of Com'r Choate:		
1886. Nov. 19, D. A. Sunderland, travel, 170 miles	$17.00	
" " " Charles E. Cole " 80 "	8.00	
		$25.00
Item 12. In U. S. vs. Joseph Turcotte. Paid on order of Com'r Choate:		
1886. Dec. 29, O. E. Cote, travel, 80 miles	8.00	
" " " C. F. Charland " 80 "	8.00	
		16.00
Item 13. In U. S. vs. Louis N. Bourque. Paid on order of Com'r Choate:		
1886. Dec. 30, O. E. Cote, travel, 80 miles	8.00	
" " " C. F. Charland " 80 "	8.00	
		16.00
Item 14. In U. S. vs. Joseph Marshall. Paid on order of Com'r Choate:		
1886. Dec. 31, O. E Cote, travel, 80 miles	8.00	
" " " C. F. Charland, " 80 "	8.00	
		16.00
Total		$314.90

21 SCHEDULE No. 6.—*For service of precepts, travel, and transportation. Quarter ending Dec. 31st, 1886.*

Statement of differences No. 104232.

Item 1. 1886. Oct. 2, in U. S. vs. William E. Gould, travel by Marshal Harmon to serve U. S. circuit court's mittimus, Portland to Thomaston, 86 miles		$5.16
Item 2. 1886. Dec. 8., in U. S. vs. George W. Russell, service by Marshal Harmon of U. S. district court's warrant to arrest deft		2.00
Item 3. 1886. Dec. 8, in U. S. vs. George W. Russell, travel by Deputy R. M. Johnson to serve U. S. district court's mittimus, Portland to Auburn, 37 miles		2.22
Item 4. 1886. Dec. 9, in U. S. vs. Augustus Wood, service by Marshal Harmon of U. S. district court's warrant of removal.	$2.00	
Travel same, Portland to Augusta, 64 miles	3.84	
		$5.84
Item 5. 1886. Dec. 9, in U. S. vs. John R. Carson, service by Deputy A. L. Smith of U. S. district court's warrant of removal	2.00	
Travel same, Portland to Augusta, 64 miles	3.84	
		$5.84
Item 6. 1886. Dec. 9, in U. S. vs. John R. Keene, service by Deputy R. M. Johnson of U. S. district court's warrant of removal	$2.00	
Travel same, Portland to Augusta, 64 miles	3.84	
		$5.84
Amount carried forward		$26.90
22 Item 7. 1886. Dec. 26, in U. S. vs. Bessie Crawford, service by Marshal Harmon of U. S. district court's warrant to arrest	$2.00	
Travel at Portland, 1 mile	.06	
Transportation, marshal and prisoner, 1 mile	.20	
		$2.26
Item 9. 1886. Dec. 27, In U. S. vs. John Dickinson, service by Marshal Harmon of U. S. district court's warrant to arrest	$2.00	
Travel, same, at Portland, 1 mile	.06	
Transportion, marshal and prisoner, 1 mile	.20	
Commitment of prisoner at Portland	.50	
		$2.76

SCHEDULE No. 6.—*For service of precepts, travel, etc.*—Continued.

Statement of differences No. 104232—Continued.

Item 14. 1886. Nov. 18, in U. S. vs. Eustis L. Lane. Travel to serve subpœna of Com'r Choate at Skowhegan and Anson, Me., 56 miles $3.36

Amount carried forward $35.28

23 Item 35. 1886. Travel by Marshal Harmon from Biddeford, Me., to attend U. S. circuit court at Portland, Me.:

1886. Oct. 1, 18 miles	1.80		
" " 4, 18 "	1.80		
" " 18, 18 "	1.80		
" Nov. 1, 18 "	1.80		
		$7.20	

Travel by marshal from Biddeford, Me., to attend U. S. district court at Portland, Me.:

1886. Oct. 13, 18 miles	1.80		
" " 16, 18 "	1.80		
" " 26, 18 "	1.80		
" Nov. 5, 18 "	1.80		
" " 10, 18 "	1.80		
" " 15, 18 "	1.80		
" " 22, 18 "	1.80		
" " 29, 18 "	1.80		
" Dec. 1, 18 "	1.80		
" " 3, 18 "	1.80		
" " 6, 18 "	1.80		
" " 20, 18 "	1.80		
" " 24, 18 "	1.80		
" " 27, 18 "	1.80		
		$25.20	
		$32.40	
Allowed in First Comptroller's Office		12.60	
			$19.80
Total			$55.08

24 SCHEDULE No. 7.—*Fees paid witnesses. Quarter ending March 31st, 1887.*

Statement of differences No. 103637.

Item 19. In U. S. vs. George Wiseman, paid on order of Com'r Choate:

1887. Jan. 6, O. E. Cote, travel, 80 miles	8.00	
" " " C. F. Charland, " 80 "	8.00	
		16.00

Item 20. In U. S. vs. John McGraw, paid on order of Com'r Choate:

1887. Jan. 8, O. E. Cote, travel, 80 miles	8.00	
" " " C. F. Charland, " 80 "	8.00	
		16.00

Item 21. In U. S. vs. Mary C. LaFountain, paid on order of Com'r Choate:

1887. Mar. 2, O. E. Cote, travel, 80 miles	8.00	
" " " C. F. Charland, " 80 "	8.00	
		16.00

Item 22. In U. S. vs. Charles A. Riva, paid on order of Com'r Hamlin:

1887. Feb. 28, O. E. Cote, travel, 154 miles	15.40	
" " " C. F. Charland, " 154 "	15.40	
		30.80
Total		$78.80

25 SCHEDULE No. 8.—*Miscellaneous expenses. Quarter ending March 31st, 1887.*

Statement of differences No. 103650.

For cash paid Loring, Short & Harmon for blanks for U. S. district attorney $14.00

This account was approved and payment authorized by Atty. Gen., but disallowed in First Comptroller's Office.

26 SCHEDULE No. 9.—*For service of precepts, travel, attendance, and transportation. Quarter ending March 31st, 1887.*

Statement of differences, No. 104232.

Item 15. 1887. May 10, in U. S. vs. Ellen Peters, poor convict. Attendance before Com'r Clifford of marshal and Deputy A. L. Smith $4.00

Item 16. 1887. Jan. 10, in U. S. vs. George W. Russell, poor convict. Attendance before Com'r Rand of marshal and Deputies Smith and Johnson $6.00

Item 17. 1887. Jan. 19, in U. S. vs. Bessie Crawford, poor convict. Attendance before Com'r Rand of marshal and Deputies Smith and Johnson $6.00

Item 18. 1887. Mar 8, in U. S. vs. Eugene W. Blair, poor convict. Attendance before Com'r Clifford of Deputies Smith and Andrews $4.00

Item 20. 1887. Feb'y 4, in U. S. vs. Simon Coyle, service by Deputy A. L. Smith of U. S. district court's warrant of removal .. $2.00
Travel same, Portland to Bangor, 138 miles 8.28 $10.28

Item 23. 1887. Mar. 8, in U. S. vs. Simon Coyle, poor convict. Attendance before Com'r Rand of Marshal Harmon $2.00

Amount carried up $32.28

27 Item 28. 1887. Feb'y 21, in U. S. vs. William Young:
Travel by Deputy Andrews on U. S. circuit court's warrant to arrest, 336 miles $20.16
Allowed in First Comptroller's office, 291 miles ... 17.46 $2.70

Item 30. 1887. Mar. 17, in U. S. vs. Fred Pooler, travel by Deputy Andrews on subpœna of Com'r Choate to Waterville, 21 miles $1.26

Item 33. 1887. Mar. 29, in U. S. vs. Madam Dupres, travel by Deputy R. M. Johnson on subpœna of Com'r Rand to Presque Isle, 396 miles.. $23.76

Item 35. Travel by marshal from Biddeford, Me., to attend U. S. circuit court at Portland, Me.:

1887.	Jan. 5, 18 miles	.....	1.80
"	Feb. 16, 18 "	.....	1.80
"	Mar. 7, 18 "	.....	1.80
"	" 11, 18 "	.....	1.80
"	" 25, 18 "	.....	1.80
			$9.00

Travel by marshal from Biddeford, Me., to attend U. S. district court at Portland, Me.:

1887.	Jan. 7, 18 miles	.....	1.80
"	" 20, 18 "	.....	1.80
"	Feb. 7, 18 "	.....	1.80
"	" 14, 18 "	.....	1.80
"	" 18, 18 "	.....	1.80
"	" 23, 18 "	.....	1.80
"	" 26, 18 "	.....	1.80
"	" 28, 18 "	.....	1.80
"	Mar. 17, 18 "	.....	1.80
"	" 31, 18 "	.....	1.80
			18.00
			$27.00

Amount carried forward $87.00

SCHEDULE No. 9.—*For service of precepts, travel, etc.*—Continued.

Statement of differences No. 104232—Continued.

28	Item 35. Actual expenses paid for hack hire transporting prisoners, as follows:		
	1886.		
	Oct. 9. Stephen P. Webber (U. S. C. C.), court to jail	$1.00	
	" 27. Francis Howard (U. S. D. C.), " " " "	1.00	
	Nov. 2. " " " jail to court..	1.00	
	" 10. Asa Rogers " court to jail..	1.00	
	Dec. 9. " " " jail to court..	1.00	
	Dec. 9. " " " court to jail..	1.00	
	" 9. " " " jail to court..	1.00	
	" 8. George W. Russell (Com'r Rand)" " " ..	1.00	
	" 9. John Pulkey (U. S. D. C.), court to jail...	1.00	
	" 9. John R. Carson " " " " ...	1.00	
	" 10. " " " jail to court...	1.00	
	" 10. " " " court to jail...	1.00	
	" 9. Augustus Wood " " " " ...	1.00	
	" 10. " " " jail to court...	1.00	
	" 10. " " " court to jail...	1.00	
	" 9. James Pite " " " " ...	1.00	
	" 24. Bessie Crawford " jail to court...	1.00	
	" 26. " " " court to jail...	1.00	
	" 24. James Campbell " " " " ...	1.00	
	" 27. John Dickinson " " " " ...	1.00	
	Nov. 4. John Pulkey (Com'r Rand), " " " ...	1.00	
		$21.00	
	Amount carried forward.....		$87.00
29	Item 35. 1886.		
	Dec. 9. John Pelky (U. S. D. C.), jail to court	1.00	
	Nov. 16. Alfred LeClaire (Com'r Rand)," "	1.00	
	" 16. " " " court to jail .	1.00	
	Dec. 9. " " (U. S. D. C.), jail to court..	1.00	
	" 7. James Pite (Com'r Rand), court to jail	1.00	
	" 9. " " (U. S. D. C.), jail to court	1.00	
	" 24. John A. Dickinson (Com'r Rand), court to jail	1.00	
	" 24. " " " " jail to court	1.00	
	Oct. 14. Laforest D. Matthews (Com'r Clifford), court to jail.....	1.00	
	" 14. Laforest D. Matthews (Com'r Clifford), jail to court.....	1.00	
	" 20. Fred Routier (Com'r Clifford), court to jail.	1.00	
	" 27. " " " " jail to court.	1.00	
	" 27. " " " " court to jail.	1.00	
	Nov. 4. " " (U. S. D. C.), court to jail...	1.00	
	" 29. George Russell " " " " ...	1.00	
	Dec. 14. " " " jail to court...	1.00	
	" 4. " " " court to jail...	1.00	
	" 8. " " " jail to court...	1.00	
	1887.		
	Jan. 8. James Pite (Com'r Rand), " " " ...	1.00	
	" 19. Bessie Crawford " " " " ...	1.00	
	" 28. Margaret McKay (Com'r Clifford), court to jail	1.00	
	" 25. John A. Dickinson (Com'r Rand), jail to court	1.00	
	Feb. 5. Eugene W. Blair (U. S. D. C.) " " "	1.00	
	" 5. " " " court to jail..	1.00	
	Mar. 8. " " " (Com'r Clifford), jail to court	.50	
	Feb. 5. Samuel Knowlton (U. S. D. C.) court to jail	1.00	
	" 5. Simon Coyle " " " "	1.00	
	Mar. 8. " " (Com'r Rand), jail to court....	.50	
	Mar. 8. " " " court to jail....	.50	
	Feb. 9. James S. Higgins " " " "	1.00	
	" 10. " " " " " " "	1.00	
		$50.50	$87.00

SCHEDULE No. 9.—*For service of precepts, travel, etc.*—Continued.

Statement of differences No. 104232—Continued.

30 Item 35. 1887.

Feb.	9.	Briony Scanlan (Com'r Rand), court to jail	$1.00
"	11.	" " " jail to court	1.00
"	10.	Augustus Wood, " " " "	1.00
"	12.	John R. Carson, " " " "	1.00
"	12.	William H. Anthoine (U. S. D. C.), court to jail	1.00
"	14.	William H. Anthoine (U. S. D. C.), jail to court	1.00
"	14.	William H. Anthoine (U. S. D. C.), court to jail	1.00
Mar.	17.	William H. Anthoine (Com'r Rand), jail to court	1.80
Feb.	23.	William Young (Com'r Rand), court to jail	1.00
Mar.	26.	" " " " jail to court	1.00
"	17.	Phoebe Damon (U. S. D. C.), court to jail	1.00
"	18.	Edward McElvany " " " "	1.00
"	30.	Madam Dupres (Com'r Rand), jail to court	1.00
"	30.	" " " " court to jail	1.00
		Total from Oct. 1/86 to Mar. 31/87	$64.50
		Allowed in First Comptroller's office	20.50
			$44.00

31 SCHEDULE No. 10.—*For service of precepts, travel, attendance, and transportation. Quarter ending June 30, 1887.*

Statement of differences No. 105417.

Item 2. Travel of Marshal Harmon from Biddeford, Me., to attend U. S. circuit court at Portland, Me.:

1887.	Apr.	4, 18	miles	1.80
"	"	6, 18	"	1.80
"	"	18, 18	"	1.80
"	"	23, 18	"	1.80
"	May	14, 18	"	1.80
"	"	16, 18	"	1.80
"	"	23, 18	"	1.80
"	June	2, 18	"	1.80
"	"	6, 18	"	1.80
				$16.20

Item 2. Travel by Marshal Harmon from Biddeford, Me., to attend U. S. dist. court at Portland, Me.:

1887.	Apr.	8, 18	miles	1.80
"	"	11, 18	"	1.80
"	"	14, 18	"	1.80
"	"	20, 18	"	1.80
"	June	22, 18	"	1.80
"	"	24, 18	"	1.80
"	"	30, 18	"	1.80
				$12.60
				$28.80
		Allowed in First Comptroller's office		3.60
		Amount carried forward		$25.20

32 Item 5. In U. S. vs. George E. Morgan and William A. Pennell actual expenses paid for hack hire transportating prisoners, as follows:

1887.	Apr.	7.	William A. Pennell (Com'r Rand), court to jail	.50
"	25.	"	" " (U. S. C. C.) jail to court	.50
"	"	"	" " " court to jail	.50
"	7.		George E. Morgan (Com'r Rand) " " "	.50
"	29.	"	" " (U. S. C. C.) jail to court	.75
"	"	"	" " " court to jail	.75
				3.50
		Allowed in First Comptroller's Office		1.60
				1.90

SCHEDULE No. 10.—*For service of precepts, travel, etc.*—Continued.

Statement of differences No. 105417—Continued.

Item 6. 1887. Apr. 6, in U. S. vs. Sydney Driscoll, service of Com'r Hamlin's warrant to commit at Bangor, Me $2.00
Item 8. 1887. Apr. 6, attendance of Deputies Andrews and Johnson before Com'r Hamlin 4.00
Item 12. 1887. May 25, in U. S. vs. James H. Swett, poor convict. Attendance of Marshal Harmon and Deputy Smith before Com'r Clifford 4.00
Item 14. 1887. Apr. 9, in U. S. vs. Ellen Peters. Attendance of Marshal Harmon before Com'r Clifford 2.00
Item 15. Apr. 11, service of U. S. district court's warrant to arrest defendant 2.00
Item 16. Apr. 9, service of Com'r Clifford's warrant to commit day to day 2.00
Commitment of defendant ..... .50
6.50

Amount carried forward 43.60

33 Item 27. 1887. Apr. 23, in U. S. vs. John Parry. Attendance of Deputy Johnson before Com'r Choate 2.00
Item 31. 1887. Apr. 26, in U. S. vs. Sidney Driscoll and Daniel McGreevy. Service by Deputy Andrews of U. S. circuit court's warrants of removal of defendants 4.00
Item 34. 1887. June 6, in U. S. vs. George Powers. Service by Deputy Andrews of U. S. circuit court's warrant to arrest 2.00
Item 36. 1887. June 12, in U. S. vs. John Campbell. Travel by Deputy Andrews to serve Com'r Hamlin's warrant to arrest at Amity, Me., 475 miles 28.50
Allowed in First Comptroller's Office 9.00
19.50
Item 39. 1887. June 17, in U. S. vs. Henry Ragot. Attendance of Deputy Andrews before Com'r Rand 2.00
Item 41. 1887. June 25, in U. S. vs. Monroe Durgin. Attendance of Deputy Smith before Com'r Rand 2.00

Amount carried forward 75.10

34 Item 42. 1887. June 28, in U. S. vs. John McDougal. Attendance of Deputies Andrews and Smith before Com'r Rand 4.00
Item 43. 1887. June 29, in U. S. vs. Roderick McNeal. Attendance of Deputies Smith and Andrews before Com'r Rand 4.00
Item 44. 1887. June 30, in U. S. vs. John Campbell. Service of U. S. district court's warrant to arrest by Deputy Andrews 2.00
Item 45. Actual expenses paid for hack hire—transporting prisoners as follows:

1887.
Apr. 27. Sidney Driscoll (U. S. C. C.), jail to court ..... .50
" " " " " court to jail ..... .50
May 27. " " (Com'r Clifford), jail to court ..... .50
Apr. 25. James H. Sweet " , court to jail ..... .50
May 25. " " " (U. S. C. C.), jail to court ..... .50
May 25. " " " " court to jail ..... .50
Apr. 9. John Kelley (Com'r Rand), " " " ..... .50
" 29. " " " " jail to court ..... .50
" 9. Ellen Peters (Com'r Clifford) " " " ..... .50
" " " " " " court to jail ..... .50
" 11. " " (U. S. D. C.), jail to court ..... .50
" 11. " " " court to jail ..... .50
May 10. " " (Com'r Clifford), jail to court ..... .50

Amount carried forward 6.50 $85.10

35 Item 45. 1887.
Apr. 18. Lyman B. Heath (Com'r Fessenden), jail to court ..... .50
Apr. 18. Lyman B. Heath (Com'r Fessenden), court to jail ..... .50

SCHEDULE No. 10.—*For service of precepts, travel, etc.*—Continued.

Statement of differences No. 105417—Continued.

Item 45.	1887.	May	2.	Lyman B. Heath	(U. S. C. C.),	jail to court ..	$0.50		
		"	"	"	"	"	court to jail...	.50	
		"	3.	"	"	"	jail to court...	.50	
		"	"	"	"	"	court to jail...	.50	
		Apr.	20.	John F. Skillings	(Com'r Clifford),	jail to court	.50		
		"	"	"	"	"	court to jail	.50	
		"	23.	"	"	"	(U. S. D. C.),	jail to court ..	.50
		"	"	"	"	"	court to jail...	.50	
		"	28.	"	"	"	(U. S. C. C.),	jail to court...	.50
		"	"	"	"	"	court to jail...	.50	
		"	30.	"	"	"	jail to court...	.50	
		Apr.	23.	Emma Decelle		"	" " " " ..	.50	
		"	"	"	"	"	court to jail...	.50	
		"	25.	"	"	"	jail to court...	.50	
		"	"	"	"	"	court to jail...	.50	
		"	29.	"	"	"	jail to court...	.50	
		"	"	"	"	"	court to jail...	.50	
			30.	"	"	"	jail to court...	.50	
		May	4.	Roderick McDonald		"	court to jail...	.50	
		"	6.	"	"	"	jail to court..	.50	
		"	"	"	"	"	court to jail ..	.50	
		"	7.	"	"	"	jail to court...	.50	
		"	"	"	"	"	court to jail...	.50	
		"	9.	"	"	"	jail to court...	.50	
		"	"	"	"	"	court to jail...	.50	
		"	10.	"	"	"	jail to court...	.50	
		"	"	"	"	"	court to jail...	.50	
		"	11.	"	"	"	jail to court...	.50	
							Amount carried forward.....	21.50	
									$85.10
36	Item 45.	1887.							
		Apr.	25.	Selina Greggoire	(U. S. C. C.),	court to jail...	.50		
		"	29.	"	"	"	jail to court...	.50	
		"	"	"	"	"	court to jail...	.50	
		"	30.	"	"	"	jail to court...	.50	
		"	20.	William A. Pennell		"	" " " " ...	.50	
		"	"	"	"	"	court to jail...	.50	
		"	"	George E. Morgan		"	jail to court...	.50	
		"	"	"	"	"	court to jail...	.50	
		"	30.	Bryan Scanlan		"	jail to court...	.50	
		"	"	"	"	"	court to jail...	.50	
		May	16.	Phoebe Damon	(Com'r Clifford),	jail to court...	.50		
		"	20.	Otis Pentlin	(U. S. D. C.),	"	" " " ...	.50	
		"	"	"	"	"	court to jail...	.50	
		June	6.	George Powers	(U. S. C. C.),	jail to court ..	.50		
		"	"	"	"	"	court to jail...	.50	
		"	22.	Charles Smith	(U. S. D. C.),	jail to court...	.50		
		"	"	"	"	"	court to jail...	.50	
		"	25.	Munroe Durgan	(Com'r Raud),	jail to court...	.50		
		"	"	Roderick McNeal		"	" " " ...	.50	
		"	"	"	"	"	court to jail...	.50	
		"	26.	"	"	"	jail to court...	.50	
		"	25.	John McDougal		"	court to jail...	.50	
		"	"	"	"	"	jail to court...	.50	
		"	30.	John Campbell	(U. S. D. C.),	court to jail...	.50		
								$33.50	
							Allowed in First Comptroller's office.....	15.30	
									18.20
							Amount carried forward.....		$103.30
37	Item 47. For distributing venires April Term, 1887, U. S. District Court.								
							14 ventres, 2.00.....	28.00	
							Paid 14 constables 2.00 each	28.00	
								56.00	

SCHEDULE No. 10.—*For service of precepts, travel, etc.*—Continued.

Statement of differences No. 105417—Continued.

Item 47.	Maximum compensation	$50.00	
	Paid 14 constables	28.00	
	Am't claimed by me	22.00	
	Allowed in First Comptroller's office	2.00	
			$20.00
			$123.30

38 SCHEDULE No. 11.—*Fees paid witnesses. Quarter ending Sept. 30th*, 1887.

Statement of differences No. 108602.

Item 2.	In U. S. vs. Peter Myrand. Paid on order of Com'r Choate: 1887. Aug. 2. O. E. Cote, attendance	$1.50

39 SCHEDULE No. 12.—*For service of precepts, travel, attendance, and transportation. Quarter ending Sept. 30th*, 1887.

Statement of differences No. 108620.

Actual expenses paid for hack hire, transporting prisoners as follows: 1887.]

Item 2.	July 2, Lyman B. Heath (Com'r Clifford), jail to court	.50
Item 6.	" 6, George Powers " " " " "	.50
Item 7.	" 12, Nancy J. Murch (Com'r Rand), " " "	.50
Item 9.	" 15, James Nash (Com'r Hamlin), court to jail	.50
Item 9	Aug. 15, " " " " jail to court	.50
Item 10.	July 19, Benjamin F. Fernald, (Com'r Rand), jail to court	.50
Item 10.	" " " " " (Com'r Rand), court to jail	.50
Item 10.	" 20, " " " (Com'r Rand), jail to court	.50
Item 10.	" " " " " (Com'r Rand), court to jail	.50
Item 13.	" 21, Arthur Bartsill (Com'r Rand), " "	.50
Item 14.	" 22, Charles Smith (Com'r Clifford), jail to court	.50
Item 17.	" 30, John Campbell (Com'r Rand), " " "	50
Item 20.	Aug. 1, Mrs. Leon Dupres (Com'r Hamlin), jail to court	.50
		6.50
	Allowed in First Comptroller's Office	2.60
		3.90

Item 1. Travel of Marshal Harmon from Biddeford, Me., to attend U. S. circuit court at Portland, Me.:

1887.	July 6, 18 miles	1.80
"	" 14, 18 "	1.80
"	" 22, 18 "	1.80
"	Aug. 3, 18 "	1.80
"	" 24, 18 "	1.80
"	Sept. 1, 18 "	1.80
"	" 23, 18 "	1.80
"	" 26, 18 "	1.80
		14.40
	Amount carried forward	3.90

40 Item 1. Travel of Marshal Harmon from Biddeford, Me., to attend U. S. district court at Portland, Me.:

1887.	July 1, 18 miles	1.80
"	" 15, 18 "	1.80
"	" 25, 18 "	1.80
"	" 27, 18 "	1.80
"	" 29, 18 "	1.80
"	Aug. 1, 18 "	1.80
"	Sept. 2, 18 "	1.80
"	" 16, 18 "	1.80
		14.40

SCHEDULE No. 12.—*For service of precepts, travel, etc.*—Continued.

Statement of differences No. 108620—Continued.

Item 1. Travel of Marshal Harmon from Biddeford, Me., to attend U. S. district court at Bath, Me.:		
1887. Sept. 6, 57 miles	$85.70	
	34.50	
Allowed in First Comptroller's Office	7.50	
		$27.00
Item 3. 1887. July 2, in U. S. vs. Lyman B. Heath, poor convict: Attendance of Marshal Harmon and Deputies Smith and Andrews before Com'r Clifford		6.00
Item 4 & 5. 1887. July 7 & 8, in U. S. vs. Levi Lashus: Attendance of Marshal Harmon and Deputies Smith and Andrews before Com'r Clifford	12.00	
Allowed in First Comptroller's Office	4.00	
		8.00
Amount carried forward		$44.90
41 Items 11 & 12. 1887. July 19 & 20, in U. S. vs. Benjamin F. Fernald: Attendance of Marshal Harmon and Deputies Smith and Andrews before Com'r Rand	12.00	
Allowed in First Comptroller's Office	4.00	
		8.00
Item 16. 1887. July 23, in U. S. vs. John Harrington: Attendance of Marshal Harmon and Deputy A. L. Smith before Com'r Rand		4.00
Item 18. 1887. July 30, in U. S. vs. John Campbell: Attendance of Marshal Harmon and Deputies Smith and Andrews before Com'r Rand	6.00	
Item 21. 1887. Aug. 2, in U. S. vs. Catherine Frieeh: Attendance of Marshal Harmon and Deputies Smith and Andrews before Com'r Rand	6.00	
Allowed in First Comptroller's Office	4.00	
		2.00
Item 22. 1887. Aug. 6, in U. S. vs. Maitland Smith: Attendance of Harmon and Deputies Smith and Johnson before Com'r Rand	6.00	
Allowed in First Comptroller's Office	4.00	
		2.00
Item 23. 1887. Aug. 8 & 9, in U. S. vs. Cora E. McLaughlin: Attendance of Deputy Smith before Com'r Choate	4.00	
Allowed in First Comptroller's Office	2.00	
		2.00
Amount carried forward		$68.90
42 Items 24 & 25. 1887. Aug. 10 & 11, in U. S. vs. Martin W. Woodman: Attendance of Marshal Harmon and Deputy Johnson before Com'r Clifford	8.00	
Allowed in First Comptroller's Office	2.00	
		6.00
Item 26. 1887. Aug. 13, in U. S. vs Seth H. Willard: Attendance of Deputies Smith and Johnson before Com'r Clifford	4.00	
Allowed in First Comptroller's Office	2.00	
		2.00
Item 27. 1887. Aug. 15, in U S. vs. Lawrence Malia: Attendance of Marshal Harmon and Deputies Smith and Johnson before Com'r Clifford	6.00	
Allowed in First Comptroller's Office	2.00	
		4.00
Item 29. 1887. Aug. 17, in U. S. vs. Mary Ulmer: Attendance of Marshal Harmon and Deputies Smith and Johnson before Com'r Clifford	6.00	
Allowed in First Comptroller's Office	2.00	
		4.00

SCHEDULE No. 12.—*For service of precepts, travel, etc.*—Continued.

Statement of differences No. 108620—Continued.

Item 30. 1887. Aug. 18, in U. S. vs. William F. Murphy:		
Attendance of Marshal Harmon and Deputies Smith and Johnson before Com'r Clifford	$6.00	
Allowed in First Comptroller's Office	2.00	
		$4.00
Item 31. 1887. Aug. 27, in U. S. vs. Victor Seymour:		
Attendance of Marshal Harmon and Deputies Smith and Andrews before Com'r Rand	6.00	
Allowed in First Comptroller's Office	2.00	
		4.00
Amount carried forward		$92.90
43 Item 32. 1887. Aug. 30, in U. S. vs. Edward W. Perkins:		
Attendance of Marshal Harmon and Deputies Smith and Andrews before Com'r Rand	6.00	
Allowed in First Comptroller's Office	2.00	
		4.00
Item. 33. 1887. Sept. 16 & 17, in U. S. vs. Elizabeth Haney:		
Attendance of Deputy Johnson before Com'r Hamlin	4.00	
Allowed in First Comptroller's Office	2.00	
		2.00
Item. 34. For distributing venires, Sept. term (1887), U. S. district court at Bath, Me.:		
Paid 14 constables, 2.00	28.00	
14 venires	28.00	
	56.00	
Maximum compensation	50.00	
Paid constables	28.00	
Amount claimed by me	22.00	
Allowed in First Comptroller's Office	2.00	
		20.00
Item 35. For distributing venires, Sept. term (1887), U. S. circuit court at Portland, Me.:		
Paid 12 constables, $2.00 each	24.00	
12 venires, $2.00 each	24.00	
	48.00	
Paid constables	24.00	
Amount claimed by me	24.00	
Allowed in First Comptroller's Office	2.00	
		22.00
Total		$140.00

44 SCHEDULE No. 13.—*For service of precepts, travel, transportation, and attendance, quarter ending Dec. 31st, 1887.*

Statement of differences No. 109192.

Item 1. Travel of Marshal Harmon from Biddeford, Me., to attend U. S. circuit court at Portland, Me.:		
1887. Oct. 1, 18 miles	1.80	
" " 3, 18 "	1.80	
" " 10, 18 "	1.80	
" " 22, 18 "	1.80	
" " 31, 18 "	1.80	
" Nov. 3, 18 "	1.80	
" " 7, 18 "	1.80	
" " 28, 18 "	1.80	
" " 30, 18 "	1.80	
" Dec. 23, 18 "	1.80	
" " 28, 18 "	1.80	
	19.80	

SCHEDULE No. 13.—*For service of precepts, travel, etc.*—Continued.

Statement of differences No. 109192—Continued.

Item 1. Travel from Marshal Harmon from Biddeford, Me., to attend U. S. district court at Portland, Me.:		
1887. Oct. 15, 18 miles	$1.80	
" " 17, 18 "	1.80	
" " 19, 18 "	1.80	
" " 24, 18 "	1.80	
" Nov. 15, 18 "	1.80	
" " 17, 18 "	1.80	
" " 23, 18 "	1.80	
" " 26, 18 "	1.80	
" Dec. 6, 18 "	1.80	
" " 19, 18 "	1.80	
" " 29, 18 "	1.80	
	19.80	
	39.60	
Allowed in First Comptroller's Office	12.60	
		$27.00
Amount carried forward		$27.00
45 Item 3. 1887. Dec. 3, in U. S. vs. Charles N. Dickinson: Attendance of Marshal Harmon and Deputy Andrews before Com'r Rand	4.00	
Allowed in First Comptroller's Office	2.00	
		2.00
Item 6. 1887. Dec. 30. In U. S. vs. Joseph Michaud: Attendance of Marshal Harmon and Deputy Johnson before Com'r Rand	4.00	
Allowed in First Comptroller's Office	2.00	
		2.00
Item 8. 1887. Nov. 19. In U. S. vs. Samuel J. Watson: Travel by Deputy Andrews from Portland in serving Com'r Rand's warrant to arrest defendant at Smyrna, 325 miles	19.50	
Allowed in First Comptroller's Office	1.14	
		18.36
Item 12. For distributing venires, Dec. term, 1887, U. S. district court:		
Paid 10 constables $2.00 each	20.00	
10 venires, $2.00 each	20.00	
	40.00	
Paid constables	20.00	
Amount claimed by me	20.00	
Allowed in First Comptroller's Office	2.00	
		18.00
Total		$67.35

45½ United States Marshal's sub-voucher.

Voucher No. .

Received March 3 & 4, 1887, of Benjamin F. Andrews, dep. United States marshal, two and $\frac{50}{100}$ dollars, for hotel bill at DeWitt House, Lewiston, Me., in case of U. S. vs. G. LaFountain.

H. A. BRICK.
By W. H. POND.

$.
Address.

46 SCHEDULE No. 14.—*For service of precepts, travel, transportation, and attendance, quarter ending March 31st, 1888.*

Statement of differences No. 109255.

Item 10. 1888. Mar 14. In U. S. vs. William D. Blackwood:		
Attendance of Deputies Andrews and Smith before Com'r Rand	$4.00	
Allowed in First Comptroller's Office	2.00	
		$2.00
Item 11. 1888. Mar. 17. In U. S. vs. Johanna S. Hermon.:		
Attendance of Marshal Harmon and Deputy Smith before Com'r Rand	4.00	
Allowed in First Comptroller's Office	2.00	
		2.00
Item 8. 1888. Mar. 3 & 4. In U. S. vs. G. LaFountain:		
Expenses while endeavoring to arrest defendant, Com'r Choate's warrant, 2 days		4.00
Item 13. Travel from Marshal Harmon from Biddeford, Me., to attend U. S. circuit court at Portland, Me.:		
1888. Feb'y 2, 18 miles	1.80	
" Mar. 16, 18 "	1.80	
	3.60	
Travel of Marshal Harmon from Biddeford, Me., to attend U. S. district court at Portland, Me.:		
1888. Jan. 2, 18 miles	1.80	
" " 5, 18 "	1.80	
" " 9, 18 "	1.80	
" " 12, 18 "	1.80	
" " 16, 18 "	1.80	
" " 18, 18 "	1.80	
" " 23, 18 "	1.80	
	12.60	
Amount carried forward		$8.00
47 1888. Jan. 30, 16 miles	1.80	
" Feb. 6, 18 "	1.80	
" " 25, 18 "	1.80	
" " 27, 18 "	1.80	
" " 29, 18 "	1.80	
" Mar. 7, 18 "	1.80	
" " 12, 18 "	1.80	
" " 20, 18 "	1.80	
" " 23, 18 "	1.80	
	28.80	
	32.40	
Allowed in First Comptroller's Office	16.20	
		16.20
Item 14. For distributing venires, Feb. term, 1888, U. S. district court, at Portland, Me.:		
Paid 11 constables, 2.00 each	22.00	
11 venires, 2.00 each	22.00	
	44.00	
Paid constables	22.00	
Amount claimed by me	22.00	
Allowed in First Comptroller's Office	2.00	
		20.00
Total		$44.20

48 SCHEDULE No. 15.—*For service of precepts, travel, transportation, and attendance, quarter ending June 30th, 1888.*

Statement of differences No. 111414.

Item 1. For distributing venires, April term, 1888, U. S. circuit court:			
Paid 13 constables, $2.00 each		26.00	
13 venires, $2.00		26.00	
		52.00	
Maximum compensation		50.00	
Paid constables		26.00	
Amount claimed by me		24.00	$24.00
Item 2. For distributing venires, June term, 1888, U. S. district court:			
Paid 11 constables, $2.00 each		22.00	
11 venires, $2.00 each		22.00	
		44.00	
Paid constables		22.00	
Amount claimed by me		22.00	
Allowed in First Comptroller's Office		2.00	
			20.00
Item 7. 1888. Apr. 30. In U. S. vs. City of Calais: Travel by Deputy Smith, U. S. circuit court's summons to show cause in bill in equity, 296 miles			17.76
Item 8. 1888. Apr. 30. In U. S. vs. William D. Haley: Travel by Deputy Smith on Com'r Clifford's warrant to arrest defendant, 91 miles			5.46
Total			$67.22

49 SCHEDULE No. 16.—*For travel and service of precepts. Quarter ending Sept. 30th, 1888.*

Statement of differences No. 111627.

Item 1. Travel of Marshal Harmon from Biddeford, Me., to attend U. S. district court at Portland, Me.			
1888. Aug. 14, 18 miles		1.80	
" " 22, 18 "		1.80	
			3.60
Item 2. For distributing venires, Sept. term, 1888, U. S. District Court.			
Paid 11 constables, 2.00 each		22.00	
11 venires, 2.00 each		22.00	
		44.00	
Paid constables		22.00	
Amount claimed by me		22.00	
Allowed in First Comptroller's Office		2.00	
			20.00
Item 3. For distributing venires, Sept. term, 1888, U. S. circuit court:			
Paid 13 constables 2.00 each		26.00	
13 venires, 2.00 each		26.00	
		52.00	
Maximum compensation		50.00	
Paid constables		26.00	
Amount claimed by me		24.00	
Allowed in First Comptroller's Office		2.00	
			22.00
Amount carried forward			$45.60

SCHEDULE No. 16.—*For travel and service of precepts, etc.*—Continued.

Statement of differences No. 111627—Continued.

50. Item 7. 1888. Aug. 2, in U. S. vs. Henry W. Crowley:
Service by Deputy Andrews on Com'r Rand's warrant to commit three witnesses, viz:
Thomas Kennedy,
John Davidson,
William Bradbury $6.00
Allowed in First Comptroller's Office 2.00
$4.00

Total $49.60

51 And on the same day is filed the following

Affidavit of service.

I, Charles B. Harmon, of Biddeford, in the district of Maine, on oath declare and say that on the seventh day of February, A. D. 1890, I delivered in hand to George E. Bird, esq., attorney of the United States for Maine district, an attested copy of the petition against the United States filed by me on said seventh day of February in the circuit court of the United States for said district of Maine; and on the same day I deposited in the post-office of the United States in said Portland an attested copy of said petition, enclosed in an envelope, postage prepaid, duly registered and directed to the Attorney-General U. S., Washington, D. C.

CHARLES B. HARMON.

UNITED STATES OF AMERICA,
District of Maine, ss:

Subscribed and sworn to by the said Charles B. Harmon this seventh day of February, A. D. 1890, before me.

[L. S.] EDWARD M. RAND,
Commissioner, C. C. U. S.

And on the 22d day of May thereafter is filed the following

Admission.

In the above-entitled cause it is admitted, on behalf of re-
52 spondents, that the services charged in the petition and schedules were actually rendered, that the disbursements charged were actually made in lawful money, and that the sums charged as paid to witnesses were actually and in every instance paid upon orders issued in due form, either by court or a commissioner of the circuit court, in the respective cases.

THE UNITED STATES OF AMERICA.
By GEO. E. BIRD, *Att'y U. S.*

And on the 26th day of June thereafter is filed the following

Plea.

And the said defendants, by Isaac W. Dyer, attorney of the United States, say that they did not undertake or promise in manner and form as

the plaintiff hath complained above. And this the said defendants pray may be inquired of by the court.

UNITED STATES OF AMERICA.
By ISAAC W. DYER, *Att'y U. S.*

And the petitioner likewise.

By EDWARD M. RAND,
His Attorney.

And on the 26th day of said June is filed the following—

Agreed statement of facts.

In this case it is hereby stipulated and agreed as follows, viz:

53 First.—As to jurisdiction:

That of the total amount claimed by petitioner, items amounting to $140.32 were disallowed by the First Comptroller prior to March 3, 1887.

Second.—As to the items claimed:

That they are correctly classified and set forth in the abstract of schedules annexed to brief of petitioner.

Third.—As to the several classes of claim:

1. Distributing venires, paid constables $20.

That said amount was so paid.

2. Distributing venires, marshal's fees $186.

That, if the marshal is entitled to a fee of $2 for each venire distributed to the several constables, he is entitled to the amount claimed, but it is claimed by respondent that said amount was erroneously charged in the marshal's account as mileage, and was for that reason disallowed by the Comptroller.

3. Paid for blanks for U. S. attorney, $14.

That upon requisition of the U. S. attorney, approved by the Attorney-General, this amount was paid by the marshal for blank indictments and informations for the necessary use of the U. S. attorney. That a similar charge has since been allowed by the Comptroller.

4. Marshal's travel to attend court, $156.60.

54 That of the amount claimed, $118.80, is for travel to attend regular terms of the circuit and district courts, and that one travel, $1.80, has been allowed and paid to the marshal for travel at each of said terms.

That said $118.80 is charged for travel on days when said courts were held by adjournment over an intervening day and were not held on consecutive days.

That the remaining sum of $37.80 is charged for travel to attend 21 special courts or special terms of the district court. That the docket of the district court shows that said 21 special courts or special terms were duly held.

5. Expenses endeavoring to arrest, $4.

That this charge for two days at $2 was disallowed by the First Comptroller solely because he claimed it was not charged in the proper account.

6. Travel to serve precepts, $237.60.

That in some instances the officer had in his hands for service several precepts against different persons for different causes, and made service of two or more of such precepts in the course of one trip, making but one travel to the most remote point of service, but charging full travel on each precept. The following item, viz:

"1886, April 24. In U. S. v. Jeffrey Gerroir, travel to serve subpœna from circuit court, Massachusetts district, at Cranberry Isle, 314 miles, $18.84."

Is suspended by Comptroller because the only actual travel was from Portland to Cranberry Isle, say 206 miles. If travel as charged is not to be allowed, then this charge should be for 206 miles, $12.36.

55 That in serving a warrant of removal (in every instance within this district) or warrant to commit, the marshal has charged travel, while the Comptroller claims that, transportation of officer and prisoner being allowed, no travel can be charged.

7. Service of precepts, $63.

That the several precepts were duly issued by the court or a commissioner, in accordance with established usage. It is claimed by the Comptroller that the issue of such precepts was unnecessary.

8. Transportation of officer and prisoner, $31.30.

That of this amount $31.10 was for the transportation of several prisoners at ten cents a mile for each. That the remaining sum of twenty cents was for transportation of the officer in charge of a prisoner, ten cents a mile on two different days.

9. Transporting prisoners to and from court, $78.

That this amount was actually paid for hack hire in accordance with the usual practice, and that the charge had always before been allowed. The Comptroller claims that the amount was excessive and the use of hacks unnecessary.

10. Attendance before commissioner, $144.

That two and sometimes three officers attended in some cases before a commissioner upon the examination of a person charged with crime or a poor convict. The Comptroller claims that the attendance of more than one officer was unnecessary; and that in the case of poor convict hearings under sec. 1042 no attendance is to be allowed as they are not persons charged with crime.

56 11. Witness fees paid, $836.10.

This point is covered by the admission previously filed in this case.

Fourth—As to the allegations in the petition.

That the marshal duly rendered his accounts as stated, and that the same were duly presented to the court and approved and forwarded to the accounting officer of the Treasury, as alleged.

ISAAC W. DYER,
Att'y U. S.
EDWARD M. RAND,
Att'y for Petitioner.

And on said 26th day of June, A. D. 1890, said cause came on to be heard before Gray and Colt, JJ., and was fully argued by counsel for the respective parties, and the same was continued to this term, when, on the first day thereof, the opinion of the court, Gray, J., was filed, finding

the facts of the case to be as above admitted, and, as a conclusion of law, that the whole of the petitioner's claim, excepting the sum of six dollars and forty-eight cents ($6.48) must be allowed. And the court find that the United States did undertake or promise in manner and form as alleged by said petitioner. It is therefore considered by the court here, to wit, on the 23d day of September, A. D. 1890, that the said petitioner, Charles B. Harmon, recover of the said United States the sum of one thousand seven hundred sixty-four dollars and twelve cents ($1,764.12), debt or damage, and his costs of suit, taxed at fifty-nine dollars and fifteen cents ($59.16).

And on the 17th day of January, A. D. eighteen hundred and ninety-one, is filed the following:

57 *Appeal.*

Circuit court of the United States, district of Maine.

Charles B. Harmon vs. The United States.

To the honorable the judges of the circuit court of the United States for the first circuit and the district of Maine:

Now comes the United States by Isaac W. Dyer, their attorney within and for said district of Maine, who on their behalf respectfully represents and showeth unto your honors that on the seventh day of February, A. D. 1890, Charles B. Harmon, of Biddeford, in said district, filed his petition against the said United States in this honorable court to recover certain fees and disbursements alleged therein to be due the petitioner from the said United States, earned and incurred as marshal of the said United States for said district, which said fees and disbursements had been disallowed as unauthorized by law by the First Comptroller of the United States, and thereafterward, to wit, on the twenty-sixth day of June, A. D. 1890, the United States filed its plea in the nature of nonassumpsit, and thereupon the said Harmon joined issue, and th*ther*eafterward, to wit, on said twenty-sixth day of June, the parties in said cause filed an agreed statement of facts, and thereafterward, to wit, on said twenty-sixth day of June, said cause came on to be heard before this honorable court on the pleadings and on the proofs in said cause and on arguments of respective counsel, and thereafterward, to wit, on the twenty-third day of September, A. D. 1890, this honorable court gave a final judgment in said cause for the petitioner therein for the sum of seventeen hundred and sixty-four dollars and twelve cents and costs; and your petitioners claim and say that there are certain errors of law on which said judgment is founded by which they are aggrieved, and more particularly set forth the following specifications of errors in law, to wit:

58 1st. The conclusion of law that the petitioner in said cause is entitled to recover the entire sum claimed in the petition except the sum of six dollars and forty-eight cents, being part of item six of said petition.

2*r*d. The conclusion of law that it is within the jurisdiction of this honorable court to pass upon those items set forth in said petition which were disallowed by said First Comptroller before March third, A. D. 1887.

3rd. The conclusion of law that the fees paid by said marshal as set forth in said petition and proofs to constables for distributing venires being in accordance with the statutes of Maine and the United States, the said petitioner can recover the same.

4th. The conclusion of law that said petitioner is entitled to recover certain disbursements made with the approval of the Attorney-General upon the requisition of the district attorney, *sd* said requisition having been first approved by the Attorney-General.

5th. The conclusion of law that whenever the court is held at a place other than the marshal's residence and an adjournment has been had over one or more intervening days the marshal is entitled to go home during such adjournment and on his return, to attend the court, to charge travel anew.

6th. The conclusion of law that the marshal is entitled to charge travel at each special term of court or special court when held at a place other than his residence.

7th. The conclusion of law that the charge for expenses in endeavoring to make an arrest as set forth in said petition are no more than is authorized by law.

8th. The conclusion of law that where the marshal had in his hands several precepts for service on different parties and made service of two or more of such precepts in the course of one trip, making but one travel to the most remote point of service, full travel can be charged on each precept.

59 9th. The conclusion of law that in serving a warrant of removal or warrant to commit, the marshal, having been allowed for the transportation of officer and prisoner, travel can be allowed for service.

10th. The conclusion of law that the marshal's duty to serve and his right to compensation for the service of precepts duly issued by the court or a commissioner in accordance with established usage can not be affected by the opinion of the comptroller that the issue of a precept was unnecessary.

11th. The conclusion of law that the fees charged for the transportation of officers and prisoner, to wit, the charge for the transportation of several prisoners at ten cents a mile for each, is in accordance with the statute in such case made and provided.

12th. The conclusion of law that the fees charged for the transportation of officer and prisoner, to wit, the charge for the transportation of prisoner and officer each at ten cents a mile is in accordance with the statute in such case made and provided.

13th. The conclusion of law that the number of officers necessary for attendance before a commissioner of the circuit court at hearing of a person charged with crime is a matter to be decided by the commissioner, and that in the absence of evidence impeaching the presumption that the commissioner exercised his discretion with a due regard to efficiency and economy in the administration of justice, or to affect the weight of approval by the district court of the charge, for such services upon satisfactory proof by the marshal's oath that they were actually and necessarily performed, the duty of the marshal to obey the commissioner's order as to the number of officers that shall attend and his right to recover fees for such attendance

for himself and his deputies, within the number allowed by law are not dependent upon the subsequent opinion of the said comptroller that the number attending was not necessary.

14. The conclusion of law that the marshal shall be entitled for attendance of officers before a commissioner of the circuit court on
60 an examination of a poor convict on his application for discharge under the provisions of the Revised Statutes of the United States, § 1042.

15th. The conclusion of law that the said First Comptroller can not re-examine and disallow witness fees in proper cases where the same have been actually paid by the marshal under due order of court.

Wherefore your petitioners pray your honors to allow an appeal of said cause to the Supreme Court of the United States for review and correction of said errors of law, and that a transcript of the pleadings and of such interlocutory orders, rulings, judgments, and decrees, together with the findings of fact by this honorable court and its conclusions of law upon said facts on which it founds its said judgment, as may be necessary to a proper review of the case by said Supreme Court, may be sent to said Supreme Court. And your petitioners say that this petition for appeal is taken within six months from the date of said final judgment.

THE UNITED STATES,
By ISAAC W. DYER,
Attorney U. S. for the District of Maine.

Appeal allowed.

LE BARON B. COLT,
Circuit Judge.

(Indorsed:) Petition of appeal. Charles B. Harmon vs. The United States. Maine district, ss. Office clerk C. C. U. S. Rec'd and filed Jan. 17, 1891. Attest: A. H. Davis, clerk.

61 The United States of America to Charles B. Harmon, of Biddeford, in the district of Maine, greeting.

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington, on the second Monday of October next, pursuant to an appeal filed in the clerk's office of the circuit court of the United States for the district of Maine, wherein the United States of America is appellant and you are appellee, to show cause, if any there be, why judgment rendered against said appellant, as in the said appeal is mentioned, should not be reversed, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable Le Baron B. Colt, circuit judge, this 26th day of January, A. D. eighteen hundred and ninety-one.

LE BARON B. COLT,
Circuit Judge.

UNITED STATES OF AMERICA,
Maine District, ss:

FEBRUARY 2, 1891.

In obedience to the within precept, I have this day cited and admonished the within-named Charles B. Harmon, of Biddeford, Me., to appear

at the Supreme Court of the United States at Washington, D. C., as within directed, by delivering to him in hand a true and attested copy of this precept.

Service..... ..	2.00
Travel, 18.....	1.08
Copy.....	.50
	83.58

BURTON SMITH,
Deputy U. S. Marshal, District of Maine.

(Indorsed:) Charles B. Harmon, pet'r, v. The United States. Citation. Maine district, ss. Office clerk C. C. U. S. Rec'd and filed Feb. 2, 1891. Attest: A. H. Davis, clerk.

62 CIRCUIT COURT OF THE UNITED STATES,
District of Maine.

No. 94, law.

Charles B. Harmon *v.* The United States.

[Before Gray and Colt, JJ.]

Opinion of the court.

[September 23, 1890.]

GRAY, J. This is a petition under the act of March 3, 1887, c. 359 (24 Stat., 505), to recover $1,770.60, fees and disbursements of the petitioner while marshal of the United States for this district, from March 9, 1886, to October 1, 1888, which were included in his account presented to the district court, proved to its satisfaction by his oath, and approved by that court, and forwarded to the First Auditor of the Treasury, and by him to the First Comptroller, and disallowed by the latter, and are set forth in detail in schedules annexed to the petition.

The United States, by a plea in the nature of *non assumpsit*, put in issue the petitioner's right to recover.

The United States filed the following admission in writing, signed by the district attorney:

"In the above entitled cause it is admitted on behalf of the respondents, that the services charged in the petition and schedules were actually rendered, that the disbursements charged were actually made in lawful money, and that the sums charged as paid to witnesses were actually
63 and in every instance paid upon orders issued in due form, either by the court or by a commissioner of the circuit court, in the respective cases."

The counsel for both parties signed and filed the following agreement and stipulation, entitled "agreed statement of facts:"

"In this case it is hereby stipulated and agreed as follows, viz:

"First—as to jurisdiction:

"Of the total amount claimed by the petitioner, items amounting to $140.32 were disallowed by the First Comptroller prior to March 3, 1887.

"Second—as to the items claimed:

"They are correctly classified and set forth in the abstract of schedules annexed to the brief of the petitioner," the substance of which is as stated below:

"Third—as to the several classes of claim:

"1. Distributing venires, paid constables $20.

"Said amount was so paid.

"2. Distributing venires, marshal's fees $186.

"If the marshal is entitled to a fee of $2 for each venire distributed to the several constables, he is entitled to the amount claimed. But it is claimed by the respondents that said amount was erroneously charged in the marshal's account as mileage, and was for that reason disallowed by the Comptroller.

"3. Paid for blanks for U. S. attorney, $14.

"Upon requisition of the U. S. attorney, approved by the Attorney-General, this amount was paid by the marshal for blank indictments and informations for the necessary use of the U. S. attorney. A similar charge has since been allowed by the comptroller.

64 "4. Marshal's travel to attend court, $156.60.

"Of the amount claimed $118.80 is for travel to attend regular terms of the circuit and district courts; and one travel, $1.80, has been allowed and paid to the marshal for travel at each of said terms. Said $118.80 is charged for travel on days when said courts were held by adjournment over an intervening day, and were not held on consecutive days.

"The remaining sum of $37.80 is charged for travel to attend twenty-one special courts or special terms of the district court. The docket of the district court shows that said twenty-one special courts or special terms were duly held.

"5. Expenses endeavoring to arrest, $4.

"This charge for two days at $2 was disallowed by the Comptroller solely because he claimed it was not charged in the proper account.

"6. Travel to serve precepts, $227.60.

"In some instances the officer had in his hands for service several precepts against different persons for different causes, and made service of two or more of such precepts in the course of one trip, making but one travel to the most remote point of service, but charging full travel on each precept.

"The following item, viz: '1886, April 24. In U. S. v. Jeffrey Gerroir, travel to serve subpœna from circuit court, Massachusetts district, at Cranberry Isle, 314 miles, $18.84,' is suspended by the Comptroller because the only actual travel was from Portland to Cranberry Isle, say 206 miles. If travel as charged is not to be allowed, then this charge should be for 206 miles, $12.36.

"In serving a warrant of removal (in every instance within this district) or warrant to commit, the marshal has charged travel, while the Comptroller claims that transportation of officer and prisoner being allowed, no travel can be charged.

65 "7. Service of precepts, $63.

"The several precepts were duly issued by the court or a commissioner in accordance with established usage. It is claimed by the Comptroller that the issue of such precepts was unnecessary.

"8. Transportation of officer and prisoner, $31.30.

"Of this amount $31.10 was for the transportation of several prisoners at ten cents a mile for each. The remaining sum of twenty cents was for transportation of the officer in charge of a prisoner, ten cents a mile on two different days.

"9. Transporting prisoners to and from court, $78.

"This amount was actually paid for hack hire in accordance with the usual practice, and the charge had always before been allowed. The Comptroller claims that the amount was excessive and the use of hacks unnecessary.

"10. Attendance before commissioner, $144.

"Two and sometimes three officers attended in some cases before a commissioner upon the examination of a person charged with crime or a poor convict. The Comptroller claims that the attendance of more than one officer was unnecessary, and that in the case of poor convict hearings under Rev. Stat., § 1042, no attendance is to be allowed, as they are not persons charged with crime.

"11. Witness fees paid, $836.10.

"This point is covered by the admission previously filed in this case.

"Fourth—As to allegations in the petition.

"The marshal duly rendered his accounts as stated, and the same were duly presented to the court and approved and forwarded to the accounting officers of the Treasury, as alleged."

66 This court, pursuant to § 7 of the act of March 3, 1887, c. 359, under which this petition is filed (24 Stat., 506), specifically finds the facts of the case to be as above admitted and agreed, and states, as a conclusion of law, that the whole of the petitioner's claim, excepting the sum of $6.48, part of item 6, must be allowed, for the following reasons:

The most interesting question in the case is whether this court has jurisdiction to pass upon those items of the claim, amounting to $140.32, which were disallowed by the Comptroller before March 3, 1887.

By § 2 of that act, the circuit and districts courts of the United States are vested with concurrent jurisdiction (within certain limits as to amount) of all matters which by § 1 "the Court of Claims shall have jurisdiction to hear and determine," including "all claims founded upon the Constitution of the United States or any law of Congress, except for pensions, or upon any regulation of an Executive Department, or upon any contract, expressed or implied, with the Government of the United States, or for damages, liquidated or unliquidated, in cases not sounding in tort, in respect of which claims the party would be entitled to redress against the United States, either in a court of law, equity, or admiralty, if the United States were suable: Provided, however, that nothing in this section shall be construed as giving to either of the courts herein mentioned jurisdiction to hear and determine claims growing out of the late civil war, and commonly known as 'war claims,' or to hear and determine other claims which have heretofore been rejected, or reported on adversely, by any court, department, or commission authorized to hear and determine the same."

Upon the question whether a disallowance of an account by the First Comptroller of the Treasury is within the latter part of this proviso, there

has been a diversity of judicial opinion. The circuit court for the eastern district of Missouri held that it was, and its decision was followed by the district court in this district, as well as in the eastern district
67 of Missouri. Bliss v. United States, 34 Fed. Rep., 781; Rand v. United States, 36 Fed. Rep., 671; Preston v. United States, 37 Fed. Rep., 417. But the opposite view has since been maintained, on fuller consideration, by the district court in Connecticut, in Georgia, and in Illinois. Stanton v. United States, 37 Fed. Rep., 252; Erwin v. United States, 37 Fed. Rep., 470; Hoyne v. United States, 38 Fed. Rep., 542.

The earlier decisions are based upon § 269 of the Revised Statutes, by which it is made the duty of the First Comptroller "to superintend the adjustment and preservation of the public accounts subject to his revision;" and upon § 191, which is as follows: "The balances which may from time to time be stated by the Auditor and certified to the heads of Departments by the Commissioner of Customs, or the Comptrollers of the Treasury, upon the settlement of public accounts, shall not be subject to be changed or modified by the heads of Departments, but shall be conclusive upon the executive branch of the Government, and be subject to revision only by Congress or the proper courts. The head of the proper department, before signing a warrant for any balance certified to him by Comptroller, may, however, submit to such Comptroller any facts in his judgment affecting the correctness of such balance, but the decision of the Comptroller thereon shall be final and conclusive, as hereinbefore provided."

The clause of § 269, as to the general duty of the Comptroller to superintend the adjustment and preservation of public accounts subject to his revision, is a re-enactment of a provision of earlier acts, reaching back to the foundation of the Government. Acts of September 2, 1789, c. 12, § 3, 1 Stat., 66; March 3, 1817, c. 45, § 8, 3 Stat., 367; March 3, 1849, c. 108, § 12, 9 Stat., 396.

Section 191 is a re-enactment of the act of March 30, 1868, c. 36. 15 Stat., 54. Before that act it was settled by a series of opinions of
68 successive attorney-generals that the action of the Comptroller, or of the Commissioner of Customs, was subject to the revision of heads of departments. See Opinion of Attorney-General Stanbery, of September 15, 1866, and earlier opinions therein referred to. 12 Opinions of Attorney-Generals, 49. The action of accounting officers of an executive department was never considered as a conclusive determination when the question was brought before a court of justice. Acts of March 3, 1797, c. 20, 1 Stat., 512; May 15, 1820, c. 107, § 4, 3 Stat., 595; Rev. Stat., § 3636; United States v. Jones, 8 Pet., 375, 384; United States v. Bank of Metropolis, 15 Pet., 377, 401; 1 Opinions of Attorney-Generals, 624; 5 Opinions of Attorney-Generals, 650.

The sole purpose and effect of the act of 1868 were to regulate the business of the executive departments; to define the comparative powers of the Comptrollers or the Commissioner of Customs on the one hand, and of the heads of departments on the other, in the performance of their executive and ministerial duties; and to make the decision of a comptroller or of the Commissioner of Customs final and conclusive, so far as the executive department was concerned, but not to affect the powers of the legislature or of the judiciary. 13 Opinions of Attorney-Generals, 5; 14

Opinions of Attorney-Generals, 65; 15 Opinions of Attorney-Generals, 192, 596, 626; Delaware Steamboat Co. v. United States, 5 C. Cl., 55.

The act itself, after providing that the balances certified to the heads of departments by the Comptroller, or by the Commissioner of Customs, upon the settlement of public accounts, "shall not be subject to be changed or modified by the heads of departments, but shall be conclusive upon the executive branch of the Government," adds, in equally unequivocal terms, "and be subject to revision only by Congress or the proper courts;" and the further provision, which makes the decision of the Comptroller upon facts submitted to him by the head of a department "final and con-
69 clusive," reserves the legislative and the judicial authority with equal clearness by the qualifying words "as hereinbefore provided." Act of March 30, 1868, c. 36, 15 Stat., 54; Rev. Stat., § 191.

The judgments of the Court of Claims, and of the Supreme Court on appeal from its decisions, accord with this view, and uniformly treat the action of the accounting officers as not conclusive in a suit between the United States and the individual. McElrath v. United States, 12 C. Cl., 201, and 102 U. S., 426, 441; Chorpenning v. United States, 11 C. Cl., 625, and 94 U. S., 397, 399; Pittsburg Savings Bank v. United States, 16 C. Cl., 335, 351, 352, and 104 U. S., 728, 734; Wallace v. United States, 20 C. Cl., 273, and 116 U. S., 398; Saunders v. United States, 21 C. Cl., 408, and 120 U. S., 126.

In § 1 of the act of March 3, 1887, c. 359, the words "hear and determine" are used four times; once as applied to the Court of Claims, twice as applied to that court and to the circuit and district courts, and again as applied to "any court, department, or commission." These words must be taken to be used in each instance in the same sense and as implying an adjudication conclusive as between the parties, in the nature of a judgment or award. The proviso that nothing in this section shall be construed as giving to either of the courts named in the act jurisdiction to hear and determine any claims "which have heretofore been rejected or reported on adversely by any court, department, or commission authorized to hear and determine the same" must be limited to a rejection of a claim, or an adverse report thereon, by a court, department, or commission, which determines the rights of the parties, such as the approval by the Secretary of the Treasury of an account of expenses under the captured and abandoned property acts, as in United States v. Johnston, 124 U. S. 236, or the decision of an international commission, as in Meade v. United States, 9 Wall., 691.

70 Moreover, the Court of Claims, even before the passage of the act of 1887, had jurisdiction of claims under an act of Congrsss or under a contract, and could therefore hear and determine claims for legal salaries or fees. Mitchell v. United States, 18 C. Cl., 281, and 109 U. S. 146; Adams v. United States, 20 C. Cl., 115; United States v. McDonald, 128 U. S., 471; United States v. Jones, 131 U. S., 1, 16.

We cannot believe that the act of 1887, entitled "An act to provide for the bringing of suits against the Government of the United States," and the manifest scope and purpose of which are to extend the liability of the government to be sued, was intended to take away a jurisdiction already existing, and to give to the decisions of accounting officers an authority and effect which they never had before.

The other questions in the case may be more briefly disposed of. Many of the objections of the Comptroller appear to be conceived in disregard of the express terms of the statutes or of the orderly and efficient administration of justice, and, if sustained, would greatly embarrass the courts, as well as the marshals of the United States, in the performance of their appropriate duties.

1, 2. In this district, the jurors being drawn by constables in accordance with the laws of the State, the fees paid by the marshal to the constables for their services, as well as those charged by him for his own services, in distributing venires, are in accordance with the express words of the Revised Statutes, § 829, cl. 3, and with the settled course of decision in this circuit. United States v. Cogswell, 3 Sumner, 204; United States v. Smith, 1 Woodb. & Min., 184; United States v. Richardson, 28 Fed. Rep., 61, 73.

3. The sums paid by the marshal, upon the requisition of the district attorney, approved by the Attorney-General, for blank indictments
71 and informations for the necessary use of the district attorney, having been paid by the marshal with the approval of the Attorney General, exercising the general supervisory power conferred by Rev. Stat., § 368, the marshal is entitled to be repaid those sums.

4. By the Rev. Stat., § 829, cl. 24, the marshal is to be allowed "for travelling from his residence to the place of holding court, to attend a term thereof, ten cents a mile for going only." This allowance is not expressly, or by any reasonable implication, restricted to a single travel at each term, but extends to every time when he may be expected to travel from his home to attend a term of court. If the court sits for any number of days in succession he should continue in attendance and is entitled to only one travel. But if the court is adjourned over one or more intervening days he is not obliged to remain at his own expense at the place of holding court but may return to his home and charge travel for going anew to attend the term at the day to which it is adjourned.

His right to charge travel for going to each special court or special term is, if possible, still clearer and is scarcely contested.

5. The charge for expenses in endeavoring to make an arrest was no more than the statute permits to be allowed. Rev. Stat., § 829, cl. 18.

6. The general rule prescribed by Rev. Stat., § 829, cl. 25, allows the marshal "for travel, in going only, to serve any process, warrant, attachment, or other writ, including writs of subpœna in civil or criminal cases, six cents a mile, to be computed from the place where the process is returned to the place of service." The explanatory or restrictive provisions as to the cases of two persons served with the same precept, and of more than two writs in behalf of the same party against the same person,
72 emphasize the general rule and confirm its application to several precepts against different persons for different causes, although served at the same time.

This clause of the fee bill, which allows for travel in going only, as a compensation for actual travel in both going and returning, is wholly independent of, and unaffected by, the distant clause allowing fees for transportation of officer and prisoner only while the officer has the prisoner in custody, and without regard to any additional distance which he may be obliged to travel out and back in serving the warrant of arrest or removal.

The United States rely on the act of February 22, 1875, c. 95, § 7, which, after providing that all accounts of attorneys, marshals, and clerks for mileage and expenses shall be audited, allowed, and paid as if the act of June 16, 1874, c. 285, had not been passed, further provides that "no such officer or person shall become entitled to any allowance for mileage or travel not actually and necessarily performed under provisions of existing law." 18 Stat., 334, 72.

We concur in the opinion of Attorney-General Devens that this last provision, which manifestly includes marshals, does not deny a marshal full travel on two or more writs in his hands at the same time and served at the same place on different persons, inasmuch as his travel is actual and necessary to serve each and every of those writs; but that "that provision was intended to apply to cases in which no actual travel is performed in serving process, as, for instance, where the writ is sent through the mail to be served by a deputy at or near the place of service." 16 Opinions of Attorney-Generals, 165, 169.

It follows that by the statute of 1875 the travel to be allowed to the marshal for serving at Cranberry Isle a subpœna from the circuit court for the district of Massachusetts must be limited to his actual travel within his district from Portland to Cranberry Isle, and cannot include
73 the constructive travel from Boston to Portland, amounting to $6.48, and that the marshal is entitled to recover the rest of the sums charged for travel to serve precepts.

7. The marshal's duty to serve, and right to compensation for the service of, precepts which are agreed to have been "duly issued by the court or a commissioner, in accordance with established usage," cannot be affected by the opinion of the Comptroller that the issue of a precept was unnecessary.

8. The fees charged for transportation of officers and prisoners are in exact accordance with Rev. Stat., § 829, cl. 20.

9. The hire of hacks to transport prisoners to and from court is agreed to have been in accordance with the usual practice and to have always before been allowed, and must be presumed to have been required by the court for the prompt dispatch of business.

10. The fees charged for the attendance of a marshal and his deputies before a commissioner of the circuit court were in accordance with the provision of the statutes allowing "for attending examinations before a commissioner, and bringing in, guarding, and returning prisoners charged with crime, and witnesses, two dollars a day; and for each deputy, not exceeding two, necessarily attending, two dollars a day." Rev. Stat., § 829, cl. 23. Within the number, thus restricted, of the marshal and two deputies, the question how many officers were necessary to preserve order was a matter to be decided by the commissioner, in the honest exercise of his discretion, and according to the existing exigency. No evidence has been produced to control the presumption that the commissioner was governed by a due regard to efficiency and economy in the administration of justice, or to affect the weight of the approval by the district court of the charge for these services upon satisfactory proof by the marshal's oath that
74 they were actually and necessarily performed. Act of February 22, c. 95, § 1, 18 Stat., 333. The duty of the marshal to obey the

commissioner's order and his right to recover fees for the attendance of himself and his two deputies, accordingly, were not dependent upon the subsequent opinion of the Comptroller.

The commissioner's examination of a poor convict, on his application for discharge under the Rev. Stat., § 1042, is a proceeding in a criminal case. United States *v.* Jones, 134 U. S., 483.

11. The objection of the Comptroller to the recovery of witness fees paid by the marshal under order of the court is in the face of the statute, which provides that "no accounts of fees or costs paid to any witness or juror, upon the order of any judge or commissioner, shall be so re-examined as to charge any marshal for an erroneous taxation of such fees or costs." Rev. Stat., § 846.

The result is that the petitioner is entitled to recover the sum of $1,764.12; and, considering the frivolous and vexatious nature of the objections taken to the greater part of the petitioner's claim, it is ordered by the court, in the exercise of the discretion conferred by § 15 of the act of March 3, 1887, c. 359 (24 Stat., 508), that there be

Judgment for the petitioner for that sum, and costs.

75 14. *Authentication.*

United States of America, circuit court of the United States, Maine district.

I, A. H. Davis, clerk of the circuit court of the United States for the district of Maine, do hereby certify that the foregoing typewritten pages (numbered from 1 to 61, inclusive) are a correct transcript of the pleadings and proceedings in the cause Charles B. Harmon, petitioner, v. The United States, therein named, as the same appears of record and on file in my office; and that the subsequent printed pages (numbered from 62, to 74, inclusive) are a true copy of the opinion of the court, containing the finding of the facts of said case and the conclusions of law thereon.

Witness my hand and the seal of said court this 6th day of February, A. D. eighteen hundred and ninety-one.

[SEAL.] A. H. DAVIS,
Clerk.

(Indorsed on cover:) No. 649. The United States, appellant, vs. Charles B. Harmon. Filed February 12, 1891. Maine, C. C. U. S.

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147 U.S. 268

Office Supreme Court U. S.
FILED
JAN 6 1893
JAMES H. McKENNEY,
CLERK.

In the Supreme Court of the United States.

OCTOBER TERM, 1892.

THE UNITED STATES, APPELLANT,
vs.
CHARLES B. HARMON. } No. 649.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MAINE.

BRIEF FOR APPELLANT.

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APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MAINE.

BRIEF FOR APPELLANT.

STATEMENT.

The suit in this case was brought against appellants by the United States marshal of the district of Maine for certain items of fees and credits, amounting to $1,770.60 claimed to be due him from the United States as said marshal. Accounts thereupon duly approved, as required by law, were submitted by him to the proper accounting officers of the Treasury Department, and the said items were disallowed by the First Comptroller. The items are set

forth in schedules referred to and made part of the petition. The United States put in issue the right of appellee to recover, and on that issue and the proofs the court below gave him judgment in the sum of $1,764.12 and costs.

The items embraced in the judgment are stated in the opinion of the court below (R. 27).

ASSIGNMENT OF ERRORS.

1. The court below erred in rendering judgment for the petitioner and against the United States in the sum of $1,764.12 and costs.

2. The court below erred in its conclusions of law on the facts found that the claimant was entitled to recover judgment against the United States for the items Nos. 2, 3, 4, 5, 6 (R. 32), and 9 (R. 33), discussed in its opinion.

3. The court below erred in rendering judgment for the petitioner and against the United States for the sum of $1,664.12 in the absence of a finding that the payment of that sum would not exceed the maximum compensation of the claimant as United States marshal and the proper expenses of his office.

BRIEF OF ARGUMENT.

I.

We discuss the questions of law in the order of their discussion in the opinion of the court below (Rec., 29).

1. As to jurisdiction of claims rejected by the First Comptroller prior to March 3, 1887:

This question arises under the terms of the act of March 4, 1887, chap. 359, sec. 1 (24 Stat. L., 505), which ex-

cludes from the jurisdiction created by that act all claims which had been "rejected or reported on adversely by any court, department, or commission authorized to hear and determine the same," prior to March 3, 1887.

The accounting officers of the Treasury Department are an important part of the Department. Excepting where Congress, by special law, empowers some court or executive officer to hear and determine a claim against the United States, the accounting officers of the Treasury Department alone have the power to hear and determine it.

Section 236 of the Revised Statutes says—

> All claims and demands, whether by the United States or against them, and all accounts whatever in which the United States are concerned either as debtors or creditors shall be settled and adjusted in the Department of the Treasury.

As to marshals' accounts, their settlement and adjustment belong to the First Auditor and the First Comptroller alone (Rev. Stat., 277, 269).

It is not our contention that in proper cases, *i. e.*, set-off in the circuit or district courts or by suits in the Court of Claims, the marshals were wholly without remedy from the action of the accounting officers prior to the act of March 3, 1887; but it is to be observed that these were the only remedies existing before that act, and that prior to the establishment of the Court of Claims the settlement and adjustment of accounts by the accounting officers of the Treasury Department and their final action on claims and accounts were regarded by all the Departments of the Government as a final determination, adjustment and adjudication of the claims or accounts so passed upon.

In respect to hearing and determining such claims the accounting officers constituted the "department" that heard and determined them. Their powers came within the very terms of the act of March 3, 1887. Why, then, should this act be construed so as to apply only to claims determined by special tribunals? Evidently Congress intended to set up in the first section a bar against a certain class of claims—claims "which have heretofore been rejected or reported on adversely by any court, department, or commission authorized to hear and determine the same." Such language would be unnecessary if the bar were intended to apply only to claims which had been heard and determined by courts and special tribunals, because such determinations have always been regarded as final; and nothing in the act of 1887 could by any possibility be construed as creating a new jurisdiction for such determined claims.

Is it strange that Congress should put up a bar against the prosecution of claims "heretofore" (before March 3, 1887,) rejected or reported on adversely in the great department of accounting? We think it would be strange to except such claims from the bar, and bar only exceptional claims, which were already barred. And yet this construction is attempted for appellee in view of the fact that Congress has always regarded the action of that department as final, except in cases otherwise specially provided for by creating other tribunals for their adjudication. Hundreds of millions of dollars are annually appropriated by Congress for the payment of claims and accounts settled and adjusted in the Treasury Department.

Are we to understand that Congress, in making these appropriations, does not regard the settlement and adjustment of the claims and accounts as a proceeding to hear and *determine* the amounts due the claimants? Let us examine as to the legal force and effects of such settlements of claims and accounts by the accounting department of the Government.

We submit, upon the authority of the laws of Congress and the decisions of the United States courts, from the highest to the lowest—decisions which have been uniform ever since we have had Federal courts, that a duly-certified transcript of an account between the United States and any officer or other person is so absolutely conclusive *as evidence* of the balance found and certified by the accounting officers after their examination of an account and its vouchers, that all courts of competent jurisdiction are bound to enter a judgment upon *that evidence* in suits between the United States and persons so found debtors; and that no claim for credit can be admitted for the defense in the trial of such cases except such as may have been presented to the accounting officers of the Treasury for their examination and been disallowed in whole or in part; and this fact must be alleged on oath by the defendant in open court in the presence of the district attorney.

In all such cases the certified transcript *of the proceedings of the accounting officers* required a judgment for the United States at the return term, unless the defendant could avail himself of the exceptions made by the statutes in the interest of justice and equity. And this is the law

to-day as it has been ever since the passage of the act March 3, 1797, chapter 20. (1 Stat. L., 514; Rev. Stats., 951, 957.)

The force given by law to these settlements, as made by the accounting officers, is so great that if the officer against whom the balance is found due should fail to pay over the same "in the manner or within the time required by law," it becomes the duty of the proper Comptroller of the Treasury Department to call upon the Solicitor of the Treasury "to issue a warrant of distress against the delinquent officer and his sureties" if he have any. (Rev. Stat., 3625.)

The marshal is required to execute the warrant by levy upon and sale of the goods and chattels of the debtor and his sureties, and if these be not sufficient to satisfy the warrant, the "amount due," *as found by the accounting officers*, is made a lien upon the lands, tenements, and hereditaments of such debtor and his sureties, and if these are not sufficient to satisfy the balance of the account the person of the principal debtor may be levied upon and committed to prison, "there to remain until discharged in due process of law." This has been the law since the year 1820 and it is the law to-day (Rev. Stats., 3627–3638). And such great effect as evidence has Congress given to the action of the accounting officers upon accounts and claims in favor of or against the United States that a certified balance found by them is sufficient proof to convict the debtor of the high crime of embezzlement in the absence of rebutting evidence (Rev. Stat., 5494).

These being the legal effects of the balances found due by the accounting officers, it would seem to require no

further argument to sustain the proposition, that when the accounting department of the United States settle accounts and claims, they are authorized to hear and determine them and to reject or report adversely such claims or items as in their judgment should be disallowed, and hence that claims so reported are rejected by a department authorized to hear and determine them within the meaning of the act of March 3, 1887. There is nothing in the line of argument in conflict with the general doctrine that where the accounting officers have rejected claims or credits in the adjustment of accounts, a suit may be maintained in the Court of Claims or the circuit or district courts according to the provisions of the statutes. We contend only that each and every condition upon which suit may be maintained against the United States must be fully established, and that if there is any doubt as to the jurisdiction, the doubt must be resolved in favor of the sovereign. Here there can be no doubt that the accounting officers are a proper branch of the Treasury Department to reject or report on adversely items in claims or accounts, and that in so doing they are exercising a power to hear and determine them.

2. Distributing venires, marshal's fees, $186.

The finding as to this item is not of fact. It is mere conclusion of law and is, therefore, error.

3. Disbursements by the marshal upon the requisition of the district attorney, approved by the Attorney-General, for blank indictments and information for the necessary use of the district attorney.

We are not aware of any law authorizing or making an appropriation for such blanks, and unless there is such authority for the disbursement it necessarily follows that the marshal can not be allowed credit for this item. The item is payable only out of the earnings of the district attorney. It is a part of his office expenses. As well might the marshal pay for office rent, fuel, lights, clerk hire, stationery, and a library for the district attorney, all of which may be very necessary expenses of office.

4. Mileage of the marshal for traveling more than once from his place of residence to attend a term of court.

The finding in this item is not specific. We infer that this item is for travel caused by temporary adjournment of court for a day or two during a term thereof, the marshal preferring to go home than to remain at the place of holding court at his own expense.

The fee bill (Rev. Stat., 829) allows the marshal "for traveling from his residence to the place of holding court to attend a term thereof, 10 cents a mile for going only." When the fee bill was enacted it was considered that a term of court lasted from the commencement of the term until adjournment of the term; that is to say, that the whole term was a fixed period; that a recess taken within the period did not end the term, and that a new term did not begin on the expiration of the recess. In short, that a term of court constituted one judicial day, including all days of recess. In this view of the case, we think a fair reading of the statute forbids more than one mileage for going to attend a *term* of court. It does not read that the marshal shall have mileage "*each time* he travels from his place of residence to the place of holding court *dur-*

ing a term thereof." Yet, we submit, to sustain the finding as to this item the italicized words would have to be supplied by this court in construing the statute.

5. Expenses endeavoring to arrest. The finding is defective. It is not shown that the expenses amounted to $2 a day. The fee bill allows necessary expenses only and not exceeding $2 a day.

6. Travel to serve precepts. This claim is for travel fee on more than one writ—served on different persons in different causes in the course of one trip. Discussion of this item is unnecessary, as the question involved has been presented in the case of the *United States* v. *Thomas Fletcher*, No. 783, of this term, recently submitted to the Supreme Court under Rule 20.

9. Hire of hacks to transport persons to and from court. Although this may have been a customary charge in the district of Maine, we submit it is contrary to law to allow it. This service is covered by the per diem fee of $5 a day for attending court and bringing in and committing prisoners and witnesses; hence there can be no other measure of compensation. The fee bill says that the marshal shall have—

> For attending the circuit and district courts when both are in session, or either of them when only one is in session, and for bringing in and committing prisoners and witnesses during the term, five dollars a day.

For the like service before a commissioner, the marshal is allowed two dollars a day, "and for each deputy, not exceeding two, necessarily attending, two dollars a day."

No custom to charge the United States with hack hire for such service in addition to the per diem of the officer can be maintained against the express words and intent of the fee bill. If such expenses are required to be incurred "by the court for the prompt dispatch of business," a fund ought to be provided for their payment, but we know of no such fund, and in the absence of such a fund, we know of no authority in the marshal to disburse public money for that purpose.

II.

As to the third assignment of error. The question there involved has been presented in the case of *United States* v. *Thomas Fletcher*, No. 783, present term of the Supreme Court, which has been submitted recently under the twentieth rule of the court.

For the foregoing reasons it is respectfully submitted that the decree of the court below should be reversed and the petition ordered dismissed.

FELIX BRANNIGAN,
Assistant Attorney.
CHARLES H. ALDRICH,
Solicitor-General.

147 U 826

Office Supreme Court U. S.
FILED.
NOV 29 1892
JAMES H. McKENNEY,
CLERK.

In the Supreme Court of the United States.

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THE UNITED STATES, APPELLANT,
vs.
CHARLES B. HARMON. } No. 649.

BRIEF FOR APPELLEE.

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THE UNITED STATES, APPELLANT,
vs.
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BRIEF FOR APPELLEE.

This suit, brought by the appellee, Charles B. Harmon, against the United States for the recovery of his official fees and disbursements as Marshal of the United States for the District of Maine, comes by appeal from the Circuit Court of the United States for said District, and the errors assigned in the judgment of that court (pp. 24–26) are fifteen in number. They will be considered in their order.

1. The conclusion of law that the petitioner in said cause is entitled to recover the entire sum claimed in the petition except the sum of six dollars and forty-eight cents, being part of item six of said petition.

This assignment of error is general, and whether it is correct must depend on the decision upon the other fourteen.

2. The conclusion of law that it is within the jurisdiction of this honorable court to pass upon those items set forth in said petition which were disallowed by said First Comptroller before March third, A. D., 1887.

The items so disallowed by the First Comptroller amount to $140.32 (p. 22), and were clearly within the jurisdiction of the Circuit Court unless prior to March 3, 1887, they had been "rejected, or reported on adversely, by "any court, department, or commission au- "thorized to hear and determine the same."

The First Comptroller is neither a court nor a commission, and that he is not a "department" in the sense of the Act of March 3, 1887, seems to be conclusively shown in the opinion of Mr. Justice Gray (pp. 29–31).

3. The conclusion of law that the fees paid by said marshal as set forth in said petition and proofs to constables for distributing venires being in accordance with the Statutes of Maine and the United States, the said petitioner can recover the same.

In Maine jurors are drawn by lot.

Rev. Stats. Maine, Chap. 106, Sec. 1. "The municipal officers, treasurer, and clerk of each "town, constitute a board for preparing lists "of jurors to be laid before the town for their "approval."

"SEC. 4. After the list of jurors is approved "by the town, the board shall write their names "upon tickets, and place them in the jury box, "to be kept by the town clerk."

"SEC. 11. The town clerk, or, in his absence, "one of the municipal officers, shall carry the "jury box into the meeting, and it shall there "be unlocked, and the tickets mixed by a ma- "jority of said officers present; one of them "shall draw out as many tickets as there are "jurors required; and the persons whose names "are drawn shall be returned as jurors."

The Marshal's fees are fixed by Statute.

U. S. R. S. § 829, par. 3. "For serving venires "and summoning every twelve men as grand or "petit jurors, four dollars, or thirty-three and "one-third cents each. In States where, by the "laws thereof, jurors are drawn by lot, by con- "stables, or other officers of corporate places, the "marshal shall receive, for each jury, two dollars "for the use of the officers employed in drawing "and summoning the jurors and returning each

"venire, and two dollars for his own services in "distributing the venires. But the fees for dis- "tributing and serving venires, drawing and "summoning jurors by township officers, includ- "ing the mileage chargeable by the marshal for "each service, shall not at any court exceed fifty "dollars.

The correctness of these charges appears from the plain wording of the Statute, and is confirmed by the settled course of decision in this District.

U. S. v. Coggswell, 3 Sumner 204.
U. S. v. Smith et als., 1 W. & M. 184.
U. S. v. Richardson, 28 Fed. Rep. 61. 73.

4. The conclusion of law that said petitioner is entitled to recover certain disbursements made with the approval of the Attorney General upon the requisition of the district attorney, said requisition having been first approved by the Attorney General.

"Upon requisition of the U. S. Attorney, ap- "proved by the Attorney General, this amount "was paid by the marshal for blank indict- "ments and informations for the necessary use "of the U. S. Attorney." "A similar charge "has since been allowed by the Comptroller" (p. 22).

The inconsistency of the Department of Justice is so plain as to require no comment.

5. The conclusion of law that whenever the court is held at a place other than the Marshal's residence and an adjournment has been had over one or more intervening days the Marshal is entitled to go home during such adjournment and on his return, to attend the court, to charge travel anew.

6. The conclusion of law that the Marshal is entitled to charge travel at each special term of court or special court, when held at a place other than his residence.

U. S. R. S., § 829, par. 24, allows the Marshal "For traveling from his residence to the place "of holding court, to attend a term thereof, "ten cents a mile for going only."

In this case the travel charged is either to attend a special term or special court or when a regular term was held by adjournment over one or more intervening days (p. 22).

There is no express or implied restriction to one single travel at each term. It is respectfully submitted that a fair construction of the statute does not require the Marshal to re-

main away from his residence (in this case only 18 miles distant from the place of holding the Circuit, and the usual place of holding the District Court) when Court adjourns over at least one intervening day, but allows him to charge travel, if actually made, *whenever he is required, in the discharge of his duty to attend a session of such Court.*

The charge for travel to attend a special term or special Court can hardly be questioned.

7. The conclusion of law that the charge for expenses in endeavoring to make an arrest as set forth in said petition are no more than is authorized by law.

U. S. R. S., § 829, par. 18. "For expense while "employed in endeavoring to arrest, under "process, any person charged with or con- "victed of a crime, the sum actually expended, "not to exceed two dollars a day, in addition "to his compensation for service and travel."

The Statute expressly allows the charge. "The disbursements charged were actually made in lawful money" (p. 21). The charge was disallowed by the First Comptroller "solely because he claimed it was not charged "in the proper account" (p. 22). *The real "question is, is it due?*

8. The conclusion of law, that where the Marshal had in his hands several precepts for service on different parties and made service of two or more of such precepts in the course of one trip, making but one travel to the most remote point of service, full travel can be charged on each precept.

U. S. R. S., § 829, par. 25. "For travel, in going only, to serve any process, warrant, attachment, or other writ, including writs of subpœna in civil or criminal cases, six cents a mile, to be computed from the place where the process is returned to the place of service, or, when more than one person is served therewith, to the place of service which is most remote, adding thereto the extra travel which is necessary to serve it on the others. But when more than two writs of any kind required to be served in behalf of the same party on the same person might be served at the same time, the Marshal shall be entitled to compensation for travel on only two of such writs."

The above restriction in the cases of two persons served with the same precept, and of more than two writs in behalf of the same party against the same person, leads clearly to the conclusion that in all other cases, *where there are several precepts against different persons for different causes, full travel*, if actu-

ally performed, may be charged by the Marshal *upon each precept served*, even although several precepts were served at the same place or in the course of one trip.

16 Opinions Att'y Gens. 165, 169.

9. The conclusion of law that in serving a warrant of removal or warrant to commit, the Marshal, having been allowed for the transportation of officer and prisoner, travel can be allowed for service.

U. S. R. S., § 829, par. 1. "For service of any "warrant . . . two dollars for each per- "son on whom service is made."

"Par. 19. For every commitment or discharge "of a prisoner, fifty cents."

The fee allowed for service of a warrant, as also the fee allowed for transportation of the officer and prisoner, is entirely distinct from the fee allowed for the travel required to enable the officer to make the service. These three fees are given by three independent clauses of the fee bill, § 829. In serving a warrant to arrest, the officer is allowed his fee for travel, his fee for service and his fee for transportation of himself and prisoner. In serving a warrant of removal or warrant to commit, the order of these fees is simply re-

versed, and the officer is entitled to his fee for transportation of himself and prisoner, his fee for service and his fee for travel. The principle is the same in each case.

10. The conclusion of law that the Marshal's duty to serve and his right to compensation for the service of precepts duly issued by the court or a commissioner in accordance with established usage cannot be affected by the opinion of the Comptroller, that the issue of a precept was unnecessary.

There can be no possible error in this conclusion of law. A reverse statement is palpably absurd.

11. The conclusion of law that the fees charged for the transportation of officers and prisoner, to wit, the charge for the transportation of several prisoners at ten cents a mile for each, is in accordance with the statute in such case made and provided.

12. The conclusion of law that the fees charged for the transportation of officer and prisoner, to wit, the charge for the transportation of prisoner and officer each at ten cents a mile is in accordance with the statute in such case made and provided.

U. S. R. S. §829 par. 20 allows the officer "For "transporting criminals, ten cents a mile for "himself and for each prisoner and necessary "guard."

The fees charged are exactly in accordance with the statute.

13. The conclusion of law that the number of officers necessary for attendance before a commissioner of the circuit court at hearing of a person charged with crime is a matter to be decided by the commissioner, and that in the absence of evidence impeaching the presumption that the commissioner exercised his discretion with a due regard to efficiency and economy in the administration of justice, or to affect the weight of approval by the district court of the charge, for such services upon satisfactory proof by the Marshal's oath that they were actually and necessarily performed, the duty of the marshal to obey the commissioner's order as to the number of officers that shall attend and his right to recover fees for such attendance for himself and his deputies, within the number allowed by law are not dependent upon the subsequent opinion of the said com ptroller that the number attending was not necessary.

U. S. R. S. § 829 par. 23 allows the Marshal "for attending examinations before a commis- "sioner, and bringing in, guarding, and re-

"turning prisoners charged with crime, and "witnesses, two dollars a day; and for each "deputy not exceeding two, necessarily at- "tending, two dollars a day."

The charges were in accordance with the Statute, and for services actually rendered (p. 21) and the *subsequent opinion of the Comptroller is of no consequence* and of no effect except to compel the bringing of this suit.

14. The conclusion of law that the marshal shall be entitled for attendance of officers before a commissioner of the circuit court on an examination of a poor convict on his application for discharge under the provisions of the Revised Statutes of the United States § 1042.

Under the last cited provision of Statute, the Marshal is allowed fees for himself and deputies "for attending examinations before a "commissioner." The *examination* of a poor convict under §1042 is a proceeding in a criminal case.

U. S. v. Jones, 134 U. S., 483.

15. The conclusion of law that the said First Comptroller cannot reëxamine and disallow witness fees in proper cases where the same have been actually paid by the Marshal under due order of court.